

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
and LOTTIE POWELL,  
Plaintiffs in Error,  
vs.

UNITED STATES OF AMERICA,  
Defendant in Error.

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**Transcript of Record.**

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Upon Writ of Error to the United States District  
Court of the Western District of Wash-  
ington, Northern Division.

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FILED

1911 - 1914

F. O. BOSTON



United States  
Circuit Court of Appeals

For the Ninth Circuit.

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WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF COUNSEL.

ADAM BEELER, Esq., Attorney at Law, 1808 L. C.  
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Attorney for Plaintiff in Error.

THOS. P. REVELLE, Esq., United States District  
Attorney, 310 Federal Building, Seattle, Wash-  
ington,  
Attorney for Defendant in Error. [1\*]

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United States District Court, Western District of  
Washington, Northern Division.  
May, 1923, Term.

No. 7795.

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.

WILLIAM L. SCHRIBNER, ALICE SCHRIB-  
NER, LOTTIE POWELL, *alias* LOTTIE  
LYNN, and VERA HARPER,  
Defendants.

INFORMATION.

BE IT REMEMBERED, That Thos. P. Revelle,  
Attorney of the United States of America for the  
Western District of Washington, who for the said  
United States in this behalf prosecutes in his own  
person, comes here into the District Court of the

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\*Page-number appearing at foot of page of original Certified Tran-  
script of Record.

said United States for the District aforesaid on this 18th day of July, in this same term, and for the said United States gives the Court here to understand and be informed that as appears from the affidavit of W. M. Whitney, made under oath, herein filed: [2]

### COUNT I.

That on the fifth day of July, in the year of our Lord one thousand nine hundred and twenty-three, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, then and there being, did then and there knowingly, willfully, and unlawfully have and possess certain intoxicating liquor, to wit, sixteen (16) ounces of a certain liquor known as whiskey, then and there containing more than one-half of one per centum of alcohol by volume and then and there fit for use for beverage purposes, a more particular description of the amount and kind whereof being to the said United States Attorney unknown, intended then and there by the said WILLIAM L. SCHRIBNER, ALICE SCHRIBNER, LOTTIE POWELL, *alias* LOTTIE LYNN, and VERA HARPER, for use in violating the Act of Congress passed October 28, 1919, known as the National Prohibition Act, by selling, bartering, exchanging, giving away, and furnishing the said intoxicating liquor, which said possession of the said intoxicating liquor by the said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and

Vera Harper, as aforesaid, was then and there unlawful and prohibited by the Act of Congress known as the National Prohibition Act; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [3]

And the said United States Attorney for the said Western District of Washington further informs the Court:

### COUNT II.

That on the 5th day of July, in the year of our Lord one thousand nine hundred and twenty-three, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, WILLIAM L. SCHRIBNER, ALICE SCHRIBNER, LOTTIE POWELL, *alias* LOTTIE LYNN, and VERA HARPER, then and there being, did then and there knowingly, willfully, and unlawfully sell certain intoxicating liquor, to wit, sixteen ounces of a certain liquor known as whiskey, then and there containing more than one-half of one per centum of alcohol by volume and then and there fit for use for beverage purposes, a more particular description of the amount and kind whereof being to the said United States Attorney unknown, and which said sale by the said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, as aforesaid, was then and there unlawful and prohibited by the Act of Congress passed October 28, 1919, known as the National Prohibition Act; contrary to the form of the statute in such case made

and provided, and against the peace and dignity of the United States of America. [4]

And the said United States Attorney for the said Western District of Washington further informs the Court:

### COUNT III.

That on the sixth day of July, in the year of our Lord one thousand nine hundred and twenty-three, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, WILLIAM L. SCHRIBNER, ALICE SCHRIBNER, LOTTIE POWELL, *alias* LOTTIE LYNN, and VERA HARPER, then and there being, did then and there knowingly, willfully, and unlawfully sell certain intoxicating liquor, to wit, eight (8) ounces of a certain liquor known as whiskey, then and there containing more than one-half of one per centum of alcohol by volume and then and there fit for use for beverage purposes, a more particular description of the amount and kind whereof being to the said United States Attorney unknown, and which said sale by the said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, as aforesaid, was then and there unlawful and prohibited by the Act of Congress passed October 28, 1919, known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. [5]

And the said United States Attorney for the said

Western District of Washington further informs the Court:

COUNT IV.

That on the sixth day of July, in the year of our Lord one thousand nine hundred and twenty-three, at the city of Seattle, in the Northern Division of the Western District of Washington, and within the jurisdiction of this court, and at a certain place situated at 201½ Second Avenue South, known as the Star Rooms, in the said city of Seattle, WILLIAM L. SCHRIBNER, ALICE SCHRIBNER, LOTTIE POWELL, *alias* LOTTIE LYNN, and VERA HARPER, then and there being, did then and there and therein knowingly, willfully, and unlawfully conduct and maintain a common nuisance by then and there manufacturing, keeping, selling, and bartering intoxicating liquors, to wit, whiskey and other intoxicating liquors containing more than one-half of one per centum of alcohol by volume and fit for use for beverage purposes, and which said maintaining of such nuisance by the said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, as aforesaid, was then and there unlawful and prohibited by the Act of Congress passed October 28, 1919, known as the National Prohibition Act; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

THOMAS P. REVELLE,

United States Attorney.

CHARLES P. MORIARTY,

Special Assistant United States Attorney.



[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. July 18, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [6]

### AFFIDAVIT OF W. M. WHITNEY.

United States of America,  
Western District of Washington,  
Northern Division,—ss.

W. M. Whitney, being first duly sworn, on oath deposes and says: That he is a Federal Prohibition Agent, and as such makes this affidavit on behalf of the United States of America:

That on the 5th day of July, 1923, at 2011½ Second Avenue South, known as the Star Rooms, in the city of Seattle, in the Northern Division of the Western District of Washington, William L. Scribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, had and possessed sixteen (16) ounces of a certain liquor known as whiskey;

That at said time and place said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper sold and delivered to affiant and one J. M. Simmons sixteen (16) ounces of said liquor, who purchased and received same;

That on the 6th day of July, 1923, at said 2011½ Second Avenue South, in the said city of Seattle, said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, sold and delivered to affiant and said J. M. Simmons, who purchased and received the same, eight (8) ounces of a certain liquor known as whiskey;

That by reason of the facts hereinabove set forth, the said William L. Schribner, Alice Schribner, Lottie Powell, *alias* Lottie Lynn, and Vera Harper, on the said 6th day of July, 1923, at said 201½ Second Avenue South, in the said city of Seattle, conducted and maintained a common nuisance.

W. M. WHITNEY.

Subscribed and sworn to before me this 17th day of July, 1923.

[Seal]                      FRANK L. CROSBY, Jr.,  
Deputy Clerk U. S. District Court, Western District  
of Washington.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. July 18, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [7]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCHRIBNER, ALICE SCHRIB-  
NER, LOTTIE POWELL, and VERA  
HARPER,

Defendants.

## ARRAIGNMENT AND PLEA.

Now, on this 29th day of October, 1923, the above defendants come into open court for arraignment accompanied by their attorney, Adam Beeler, and say that their true names are William L. Scribner, Alice Scribner, Lottie Powell and Vera Harper. Whereupon each defendant here and now enters their plea of not guilty.

Journal No. 11, page No. 363. [8]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
LOTTIE POWELL, and VERA HARPER,  
Defendants.

## TRIAL.

Now, on this 20th day of December, 1923, all defendants come into open court with Adam Beeler and J. M. Boyle, Jr., their attorneys, and with C. T. McKinney present in behalf of the Government. A jury is empaneled and sworn as follows: Roy W. Bell, John Z. Bayless, C. C. Sovde, Andrew Peirson, Charles C. Settle, Lowell F. Struthers, Hugh Allen,



Martin L. Jones, Louis W. Dettmer, Charles E. Bogardus, Frank W. Blair, and L. A. Walls. Upon motion of Adam Beeler, attorney for defendants, all witnesses were ordered excluded from the courtroom except when testifying. Opening statement is made to the jury for the Government by C. T. McKinney. Government witnesses are sworn and examined as follows: J. M. Simmons, W. M. Whitney, Walter M. Justi and C. W. Kline. Government Exhibits Numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 are introduced as evidence. Government rests.

Whereupon court stands adjourned to December 21, 1923, at 10 A. M.

Journal 11, page 462. [9]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
LOTTIE POWELL, and VERA HARPER,  
Defendants.

TRIAL RESUMED—REVISION OF PLEA.

Now, on this 21st day of December, 1923, all defendants in this cause being present and all jurors, trial is resumed. Defendant Vera Harper at this time withdraws her plea of not guilty heretofore

made on Counts I, II, and III, and enters a plea of guilty to said Counts I, II and III. Defendant Harper also moves that Count IV be withdrawn from the jury as to her, which motion is denied and exception allowed. Defendants William L. Scribner and Alice Scribner move that all counts of the information be withdrawn from the consideration of the jury as to them. Which motion is denied and exception allowed.

Opening statement is made to the jury for defendants by Adam Beeler. Defendant's witnesses are sworn and examined as follows: Vera Harper, Pearl Riley, Alice Scribner, William L. Scribner, and Lottie Powell. Government's Exhibits Numbered 11, 12, and 13, are identified but withdrawn. Defendant rests. Said cause is now argued to the jury by attorneys for both sides and the jury after being instructed by the Court, retire for deliberation. It is stipulated in open court by attorneys for both sides and the defendants that a sealed verdict may be returned at 10 A. M. to-morrow. Journal 11, page 464. [10]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
LOTTIE POWELL, and VERA HARPER,  
Defendants.

## TRIAL RESUMED—VERDICT RETURNED.

Now, on this 22d day of December, 1923, all defendants and attorneys for both sides are present. Jury is called and all are present. A verdict is returned and reads as follows: "We, the jury, in the above-entitled cause, find the defendant, William L. Scribner, is guilty as charged in Count I of the information herein; and further find the defendant, Alice Scribner, is guilty as charged in Count I of the information herein; and further find the defendant, Lottie Powell, not guilty as charged in Count I of the information herein; and further find the defendant, William L. Scribner, is guilty as charged in Count II of the information herein; and further find the defendant, Alice Scribner, is guilty as charged in Count II of the information herein; and further find the defendant, Lottie Powell, not guilty as charged in Count II of the information herein; and further find the defendant, William L. Scribner, is guilty as charged in Count III of the information herein; and further find the defendant, Alice Scribner, is guilty as charged in Count III of the information herein; and further find the defendant, Lottie Powell, is guilty as charged in Count III of the information herein; and further find the defendant, William L. Scribner, not guilty as charged in Count IV of the information herein; and further find the defendant, Alice Scribner, not guilty as charged in Count IV of the information herein; and further find the defendant, Lottie Powell, not guilty as charged in Count IV of the information herein; and

further find the defendant, Vera Harper, not guilty as charged in Count IV of the information herein. John Z. Bayless, Foreman. Verdict is ordered filed and sentence is set for January 7, 1924. Defendants are allowed to go on present bail.

Journal No. 11, page 472. [10<sup>1</sup>/<sub>2</sub>]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
LOTTIE POWELL, and VERA HARPER,  
Defendants.

### VERDICT.

We, the jury in the above-entitled cause, find the defendant, William L. Scribner, is guilty as charged in Count I of the information herein; and further find the defendant, Alice Scribner, is guilty as charged in Count I of the information herein; and further find the defendant, Lottie Powell, not guilty as charged in Count I of the information herein; and further find the defendant, William L. Scribner, is guilty as charged in Count II of the information herein; and further find the defendant, Alice Scribner, is guilty as charged in Count III of the information herein; and further find the defendant,

Lottie Powell, not guilty as charged in Count II of the information herein; and further find the defendant, William L. Scribner, is guilty as charged in Count III of the information herein; and further find the defendant, Vera Harper, not guilty as charged in Count III of the information herein; and further find the defendant, Lottie Powell, is guilty as charged in Count III of the information herein; and further find the defendant, William L. Scribner, not guilty as charged in Count IV of the information herein; and further find the defendant, Alice Scribner, not guilty as charged in Count IV of the information herein; and further find the defendant, Lottie Powell, not guilty as charged in Count IV of the information herein; and further find the defendant, Vera Harper, not guilty as charged in Count IV of the information herein.

JOHN Z. BAYLESS,

Foreman.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. December 22, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [11]

In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
LOTTIE POWELL, *alias* LOTTIE LYNN,  
and VERA HARPER,

Defendants.

MOTION IN ARREST OF JUDGMENT AND  
ALTERNATIVE MOTION FOR NEW  
TRIAL.

Comes now William L. Scribner and Alice Scribner, defendants in the above-entitled cause, by their attorney, Adam Beeler, and hereby move the Court to enter an order in arrest of judgment as to said defendants on the following grounds and reasons:

I.

That the verdict of the jury finding said two named defendants guilty on Counts I, II and III contained in the information in the above-entitled case is inconsistent with the verdict of not guilty rendered and returned by the jury against said two herein named defendants on Count IV of the said information.

In the event that above and foregoing motion is by the Court denied, then said defendants move



the Court that an order be entered in the above-entitled cause awarding to said named defendants a new trial on the following grounds and reasons, to wit:

I.

Irregularity in the proceedings of the court and abuse of discretion by which said herein named defendants, and each of them, were deprived from having a fair trial.

II.

Accident or surprise which ordinary prudence could not have guarded against.

III.

Newly discovered evidence, material for the said named [12] defendants making this application which could not with reasonable diligence have been discovered and produced at the time of the trial.

IV.

Insufficiency of the evidence to justify the verdict and that it is against the law.

V.

Error in law occurring at the trial and excepted to at the time by the hereinabove named defendants making this application.

Dated this 24th day of December, 1923.

ADAM BEELER,

Attorney for Defendants.

Received copy December 24, 1923.

THOS. P. REVELLE.

[Endorsed]: Filed in the United States District Court, Western District of Washington, North-

ern Division. December 24, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [13]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
LOTTIE POWELL, *alias* LOTTIE LYNN,  
and VERA HARPER,

Defendants.

### MOTION FOR NEW TRIAL.

Comes now the defendant, Lottie Powell, and hereby moves the Court that she be awarded a new trial on the following grounds and reasons to wit:

#### I.

Irregularity in the proceedings of the Court and abuse of discretion by which said defendant was deprived from having a fair trial.

#### II.

Accident or surprise which ordinary prudence could not have guarded against.

#### III.

Newly discovered evidence, material for the said defendant making this application which could not



with reasonable diligence have been discovered and produced at the time of the trial.

IV.

Insufficiency of the evidence to justify the verdict and that it is against the law.

V.

Error in law occurring at the trial and excepted to at the time by the defendant making this application.

Dated this 24th day of December, 1923.

ADAM BEELER,

Attorney for Defendant.

Received copy December 24, 1923.

THOS. P. REVELLE,

U. S. Attorney.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. December 24, 1923. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [14]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCHRIBNER, ALICE SCHRIBNER, LOTTIE POWELL, and VERA HARPER,

Defendants.

## DECISION.

(On Motion in Arrest of Judgment and for New Trial.)

Filed January 31, 1924.

THOMAS P. REVELLE, U. S. Attorney, C. T. McKINNEY, Asst. U. S. Attorney, Attorneys for Plaintiff.

ADAM BEELER, Esq., and J. M. BOYLE, Jr., Attorneys for Defendants.

NETERER, D. J.—The defendants move in arrest of judgment and also for a new trial. The information charges possession of liquor on Count I; Count II charges sale on July 5th; Count III charges sale July 6th, and Count IV maintenance of a common nuisance. A jury found the defendants Scribner and wife guilty on Counts I, II and III, and not guilty on Count IV, and found the defendant Lottie Powell not guilty on Counts I and II, and not guilty on Count IV. During the progress of the trial the defendant Vera Harper pleaded guilty to Counts I, II and III.

The contention that the verdict of the jury is inconsistent, in that it found the defendants not guilty of maintaining a nuisance, while finding them guilty of possession and sale, and that if guilty of possession and sale the defendants must be guilty of maintaining a nuisance, and if not guilty of maintaining a nuisance they were not guilty of possession and sale, is untenable.

The jury were instructed, among other things, that a public nuisance is a nuisance which annoys such portion of the public as necessarily comes in contact with it; "anything not authorized by law which maketh hurt." The jury could very well find that possession of liquor and its sale was conducted in such a way that it would not come under the definition of nuisance as given. Section 1015, Bishop, New Criminal Procedure.—Kuch vs. State, 99 S. E. 622; Commonwealth vs. Hoskins, 128 Mass. 60; State vs. Hendrick, 78 S. W. 630; Samlin vs. U. S., 278 Fed. 170; Rosenthal vs. U. S., 276 Fed. 714; Baldini vs. U. S., 286 Fed. 133, have no application, Bilboa vs. U. S., 287 Fed. 125. The motion in arrest of judgment is denied. [15]

The ground of the motion for new trial urged is error of law occurring at the trial and excepted to by the defendants; it is said that the Court refused the defendants permission to show that witness J. A. Simmons for the Government "was arrested and placed in the city jail for being drunk," and also for refusing to strike from the testimony of witness Whitney the expression that certain rooms are *servicing rooms*, and not permitting further cross-examination of Government witness Walter M. Justi.

Witness Simmons was cross-examined with relation to money taken from some of the defendants, and then was asked the question "You are addicted to drinking yourself, are you not"? The objection to this question was sustained, and I think rightfully so. If the inquiry had been as to

whether the defendant was intoxicated at the time, it would have bearing upon his credibility as a witness, but to ask the witness whether he was addicted to drinking, purely a collateral matter, could under no authority be permissible. The State Supreme Court in *State vs. Coella*, 3 Wash. 99, held that a woman may be asked on cross-examination whether she is a common prostitute, for the reason that if she chose to answer and admit if such was the fact, that she had wantonly violated the restraints and passed outside the limits which religion, society and the law have long established for women's welfare and protection, her testimony would have been seriously impaired. But the circumstances disclosed here do not bring the inquiry within the rule announced. The witness Simmons did testify as to the number of drinks that were bought and drank while he was there.

Witness Whitney, in describing his entry into the building of the defendants and the premises said: "There are four serving rooms along there, right alongside of this hallway." Question: "How are those rooms furnished, Mr. Whitney?" Objection made and overruled. Counsel for defendants then said: "I ask that the testimony of the witness to the effect that these were four serving rooms be stricken." The motion was denied. The objection was made to the question as to how the rooms were furnished; the rooms were fully described by the witness; the jury had all of the facts upon which to conclude as to the character of the rooms that the witness had, and the Court did tell

the jury that it was not bound by his conclusion but it was for the jury to conclude what the rooms were used for.

The ruling of the Court to the questions in cross-examination of witness Justi was correct. Justi, on direct examination, testified as to how long he had been in the service and of his presence at the premises July 6th assisting in the search of the building on the 3d floor, and particularly the kitchen, and when cross-examined upon the particular things which he did, he was asked who accompanied him down to the Star Hotel. The objection to this question was sustained. An objection to the question: "Was Mr. Simmons upstairs with Mr. Whitney?" was also sustained. The witness had already stated that no one was upstairs at the time that he searched the place except Agent Whitney, who "came in just about the time I [16] opened the ice box." Question: "Was nobody there besides you and Whitney?" Answer: "No, not when I found the beer." Question: "Did you see the defendant Mr. Schribner?" Answer: "Yes." Question: "Was he up in his room or was he downstairs?" Answer: "He was on the second floor." Question: "Was Mr. Whitney the only one that was with you?" Objection was made and the Court said: "He has answered the question before." An exception was noted.

The fullest cross-examination of Justi was permitted within the rules of evidence. Cross-examination is for the purpose of testing the truthfulness, intelligence, memory, bias, or interest of a

witness, and any question to that end within reason was here allowed. The most strenuous argument is presented to the Court's ruling declining to permit Justi to be examined with relation to the Whitney and Simmons testimony for the purpose of discrediting it. This clearly was improper. The motion is denied.

NETERER,  
U. S. District Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. January 31, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [17]

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United States District Court, Western District of  
Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

ALICE SCRIBNER,  
Defendant.

SENTENCE (ALICE SCRIBNER).

Comes now on this 4th day of February, 1924, the said defendant Alice Scribner into open court for sentence and being informed by the Court of the charges herein against her and of her conviction of record herein, she is asked whether she has any



legal cause to show why sentence should not be passed and judgment had against her and she nothing says save as she before hath said. Wherefore by reason of the law and the premises, it is considered, ordered and adjudged by the Court that the defendant is guilty of violating the National Prohibition Act and that she be punished by being imprisoned in the King County Jail or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States for the period of six months on count III of the information and to pay a fine of \$500.00 *dollars* on Counts I and II of the information taken together. And the said defendant Alice Scribner is hereby remanded to the custody of the United States Marshal to carry this sentence into execution.

Judgment & Decree Book, Vol. 4. [18]

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United States District Court, Western District of  
Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOTTIE POWELL,

Defendant.

SENTENCE (LOTTIE POWELL).

Comes now on this 4th day of February, 1924, the

said defendant Lottie Powell into open court for sentence and being informed by the Court of the charges herein against her and of her conviction of record herein she is asked whether she has any legal cause to show why sentence should not be passed and judgment had against her and she nothing says save as she before hath said. Wherefore, by reason of the law and the premises, it is considered, ordered and adjudged by the Court that the defendant is guilty of violating the National Prohibition Act and that she be punished by being imprisoned in the King County Jail or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States for the period of six months on Count III of the information. And the said defendant Lottie Powell is now hereby remanded to the custody of the United States Marshal to carry this sentence into execution.

Judgment & Decree Book, Vol. 4. [19]

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United States District Court, Western District of  
Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER,

Defendant.



## SENTENCE (WILLIAM L. SCRIBNER).

Comes now on this 4th day of February, 1924, the said defendant William L. Scribner into open court for sentence and being informed by the Court of the charges herein against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him and he nothing says save as he before hath said. Wherefore by reason of the law and premises, it is considered ordered and adjudged by the court that the defendant is guilty of violating the National Prohibition Act and that he be punished by being imprisoned in the King County jail or in such other prison as may be hereafter provided for the confinement of persons convicted of offenses against the laws of the United States for the period of six months on Count III of the information and to pay a fine of \$750.00 dollars on Counts I and II taken together and the defendant is hereby remanded into the custody of the United States marshal to carry this sentence into execution.

Judgment & Decree Book, Vol. 4. [20]

In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOTTIE POWELL,

Defendant.

PETITION FOR WRIT OF ERROR (LOTTIE POWELL).

To the Above-entitled Court and to the Honorable  
JEREMIAH NETERER, Judge Thereof:

Comes now the above-named defendant, Lottie Powell, by her attorney, Adam Beeler, and shows that on December 21st, 1923, a jury impanelled in the above-entitled court and cause returned a verdict finding the above-named defendant guilty on count three of the information theretofore filed in the above-entitled court and cause, and thereafter within the time limited by law under the rules of this court, the defendant moved for a new trial, which said motion was by the Court overruled and an exception thereto allowed; and thereafter on the 4th day of February, 1924, the defendant was by order and judgment and sentence of the above-entitled court in said cause, sentenced as follows:

On Count III of the information to be imprisoned

for six months in the King County jail of the State of Washington.

And, your petitioner herein feeling herself aggrieved by said verdict, judgment and sentence of the court entered herein, as aforesaid, and by the orders and rulings of said court and proceedings in said cause, now herewith petitions this Court for an order allowing her to prosecute a writ of error from said judgment and sentence to the Circuit Court of Appeals of the United States for the Ninth Circuit, under the laws of the United States, and in accordance with the procedure of said court made and provided, to the end that the said proceedings as herein recited, and as more fully set forth in the assignments of error presented herein, may be reviewed and the manifest error appearing on the face of the record [21] of said proceedings, and upon the trial of said cause, may be by said Circuit Court of Appeals corrected, and that for said purpose a writ of error and citation thereon should issue as by law and the ruling of the court provided.

WHEREFORE, the premises considered, your petitioner prays that a writ of error issue to the end that said proceedings of the District Court of the United States for the Western District of Washington, Northern Division, may be reviewed and corrected; said error in said record being herein assigned and presented herewith, and that pending the final determination of said writ of error by said Appellate Court, an order may be entered herein that all further proceedings be suspended

and stayed, and that pending such final determination that said defendant be admitted to bail.

ADAM BEELER,  
Attorney for Petitioner.

Acceptance of service of the within petition for writ of error, accepted this 11th day of February, 1924.

THOS. P. REVELLE,  
Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [22]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIBNER,  
Defendants.

PETITION FOR WRIT OF ERROR (WILLIAM  
L. SCRIBNER and ALICE SCRIBNER).

To the Above-entitled Court and to the Honorable  
JEREMIAH NETERER, Judge Thereof:

Comes now the above-named defendants, by their

attorney, Adam Beeler, and show that on December 21st, 1923, a jury impaneled in the above-entitled court and cause returned a verdict finding the above-named defendants guilty on counts one, two and three of the information theretofore filed in the above-entitled court and cause, and thereafter within the time limited by law under the rules of this court, the defendants moved in arrest of judgment and also moved for a new trial, which said motions were by the Court overruled and an exception thereto allowed; and thereafter on the 4th day of February, 1924, the defendants, and each of them, were by order and judgment and sentence of the above-entitled court in said cause, sentenced as follows:

On Counts I and II of the information, constituting but a single offense, the defendant, Alice Scribner, to pay a fine of \$500.00; and the defendant, William L. Scribner, to pay a fine of \$750.00.

On Count III of the information to be imprisoned for six months in the King County jail of the State of Washington.

And, your petitioners herein, feeling themselves aggrieved by said verdict, judgment and sentence of the Court entered herein, as aforesaid, and by the orders and rulings of said Court and proceedings in said cause, now herewith petition this Court for an order allowing them to prosecute a writ of error from said judgment and sentence to the [23] Circuit Court of Appeals of the United States for the Ninth Circuit, under the laws of the United States, and in accordance with the procedure of said court made and provided, to the end that the said proceed-

ings as herein recited, and as more fully set forth in the assignments of error presented herein, may be reviewed and the manifest error appearing on the face of the record of said proceedings, and upon the trial of said cause, may be by said Circuit Court of Appeals corrected, and that for said purpose a writ of error and citation thereon should issue as by law and the ruling of the Court provided.

WHEREFORE, the premises considered, your petitioners pray that a writ of error issue to the end that said proceedings of the District Court of the United States for the Western District of Washington, Northern Division, may be reviewed and corrected; said error in said record being herein assigned and presented herewith, and that pending the final determination of said writ of error by said Appellate Court, an order may be entered herein that all further proceedings be suspended and stayed, and that pending such final determination that said defendants be admitted to bail.

ADAM BEELER,

Attorney for Petitioners.

Acceptance of service of the within petition for writ of error, accepted this 5th day of February, 1924.

THOMAS P. REVELLE,

Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [24]



In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOTTIE POWELL,

Defendant.

ASSIGNMENT OF ERRORS (LOTTIE POW-  
ELL).

Comes now the above-named defendant, Lottie Powell, and in connection with her petition for a writ of error in this case submitted and filed herewith, assigns the following errors which the defendant avers and says occurred in the proceedings and at the trial of the above-entitled cause, and in the above-entitled court, and upon which she relies to reverse, set aside and correct the judgment and sentence entered herein, and says that there is manifest error appearing upon the face of the record, and in the proceedings, in this:

1. That during the progress of the trial a witness produced on behalf of the Government testified that certain rooms in the premises in which the defendant was arrested and in which the violation of the law is alleged to have occurred, were "serving rooms"; that the defendant requested the conclusion of the witness that said rooms were "serving rooms" be stricken, which request was by the Court denied

and an exception was duly noted, and now the defendant assigns as error the ruling of the Court upon such motion to strike.

II. That during the progress of the trial Walter M. Justi, a witness was produced on behalf of the Government, and the defendant was by the Court unduly restricted and limited in her cross-examination of said witness, to which ruling of the Court the defendant then and there duly excepted and the exception was by the Court allowed, and now the defendant assigns as error the ruling of the Court upon such cross-examination.

III. Thereafter, and within the time limited by law and the orders and ruling of this Court, the defendant moved the Court for an order granting to her a new trial, which motion was denied by the Court, to [25] which ruling of the Court the defendant duly excepted, and the exception was by the Court allowed, and now the defendant assigns as error the ruling of the Court upon said motion.

And as to each and every assignment of error, as aforesaid, the defendant says that at the time of making of the order or ruling of the Court complained of, the defendant duly asked and was allowed an exception to the ruling and order of the Court.

ADAM BEELER,  
Attorney for Defendant.

Acceptance of service of the within assignment of errors, accepted this 11th day of February, 1924.

THOMAS P. REVELLE,  
Attorney for Plaintiff.



[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [26]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIBNER,

Defendants.

ASSIGNMENT OF ERRORS (WILLIAM L. SCRIBNER AND ALICE SCRIBNER).

Comes now the above-named defendants, William L. Scribner and Alice Scribner, and in connection with their petition for a writ of error in this case submitted and filed herewith, assigns the following errors which the defendants aver and say occurred in the proceedings and at the trial in the above-entitled cause, and in the above-entitled court, and upon which they rely to reverse, set aside and correct the judgment and sentence entered herein, and say that there is manifest error appearing upon the face of the record, and in the proceedings, in this:

I. That the defendants, within the time limited by law under the rules of this court moved in arrest

of judgment, which motion was denied by the Court, and to which ruling the defendants duly excepted; said motion in arrest of judgment was based upon the ground that the verdict of the jury was inconsistent, for the reason that the jury finding said defendants guilty on counts one, two and three of the information could not stand with the jury's finding the said defendants not guilty on count four of said information, for the reason that the same transaction, the same facts and the same evidence was relied upon by the Government in seeking a conviction under count four as under counts one, two and three of the information, and that if guilty of possession and sale, the defendants must necessarily be guilty of maintaining a nuisance, and if not guilty of maintaining a nuisance were not guilty of possession and sale, which exception was by the Court allowed and now the defendants assign as error the ruling of the Court upon said motion.

II. That during the progress of the trial a witness produced on behalf of the Government testified that certain rooms in the premises in [27] which the defendants were arrested and in which the violation of the law is alleged to have occurred, were "serv-ing-rooms"; that the defendants requested the conclusion of the witness that said rooms were "serv-ing-rooms" be stricken, which request was by the Court denied and an exception was duly noted, and now the defendants assign as error the ruling of the Court upon such motion to strike.

III. That during the progress of the trial Walter M. Justi, a witness, was produced on behalf of the

Government, and the defendants were by the Court unduly restricted and limited in their cross-examination of said witness, to which ruling of the Court the defendants then and there duly excepted and the exception was by the Court allowed, and now the defendants assign as error the ruling of the Court upon such cross-examination.

IV. Thereafter, and within the time limited by law and the orders and ruling of this Court, the defendants moved the Court for an order granting to them a new trial, which motion was denied by the Court, to which ruling of the Court the defendants duly excepted, and the exception was by the Court allowed, and now the defendants assign as error the ruling of the Court upon said motion.

And as to each and every assignment of error, as aforesaid, the defendants say that at the time of making of the order or ruling of the Court complained of, the defendants duly asked and were allowed an exception to the ruling and order of the Court.

ADAM BEELER,

Attorney for Defendants.

Acceptance of service of the within assignment of errors, accepted this 5th day of February, 1924.

THOMAS P. REVELLE,

Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [28]

In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOTTIE POWELL,

Defendant.

ORDER ALLOWING WRIT OF ERROR (LOT-  
TIE POWELL).

A writ of error is granted this 11th day of February, 1924, and it is further ORDERED that pending the review herein, said defendant be admitted to bail and that the defendant, Lottie Powell's supersedeas bond be fixed at \$1,500.00; and it is further

ORDERED, that upon said defendant, Lottie Powell filing her bond in the aforesaid sum in due form, to be approved by the clerk of this court, she shall be released from custody pending the determination of the writ of error herein assigned.

Done in open court this 11th day of February, 1924.

JEREMIAH NETERER,

Judge.

Received a copy of the above order this 11th day of February, 1924.

THOS. P. REVELLE,

Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [29]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIBNER,

Defendants.

ORDER ALLOWING WRIT OF ERROR  
(WILLIAM L. SCRIBNER AND ALICE  
SCRIBNER).

A writ of error is granted this 5th day of February, 1924, and it is further ORDERED that pending the review herein, said defendants be admitted to bail and that the defendant, William L. Scribner's supersedeas bond be fixed at \$2,250.00, and the defendant, Alice Scribner's supersedeas bond be fixed at \$2,000.00; and it is further

ORDERED, that upon said defendants, William L. Scribner and Alice Scribner, each filing their bond in the aforesaid sum in due form, to be approved by the clerk of this court, they shall be re-

leased from custody pending the determination of the writ of error herein assigned.

Done in open court, this 5th day of February, 1924.

JEREMIAH NETERER,  
Judge.

Received a copy of the above order this 5th day of February, 1924.

THOMAS P. REVELLE,  
Attorney for Plaintiff.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [30]

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In the United States District Court for the Western  
District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIB-  
NER,  
Defendants.

SUPERSEDEAS BOND (ALICE SCRIBNER).

KNOW ALL MEN BY THESE PRESENTS:  
That we, Alice Scribner, of Seattle, King County,  
Washington, and The National Surety Company of



New York, as surety, are held and firmly bound unto the United States of America, plaintiff in the above-entitled action, in the penal sum of Two Thousand Dollars (\$2,000.00), lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the above-named defendant, Alice Scribner, was on the 4th day of February, 1924, sentenced in the above-entitled cause as follows: on Counts I and II of the information, constituting a simple offense, to pay a fine of Five Hundred Dollars (\$500.00); on Count III of the information to be imprisoned for six months in the King County jail of the State of Washington.

And, whereas, the said defendant has sued out a writ of error from the sentence and judgment in said cause to the Circuit Court of Appeals of the United States for the Ninth Circuit.

And, whereas, the above-entitled court has fixed the defendant's bond, to stay execution of the judgment in said cause, in the sum of Two Thousand Dollars (\$2000.00).

NOW, THEREFORE, if the said defendant, Alice Scribner, shall diligently prosecute *his* said writ of error to effect, and shall obey and abide by and render herself amenable to all orders which said Appellate Court shall make, or order to be made, in the premises, and shall render herself amenable to and obey all process issued, or ordered

[31] to be issued, by said Appellate Court herein, and shall perform any judgment made or entered herein by said Appellate Court, including the payment of any judgment on appeal, and shall not leave the jurisdiction of this court without leave being first had, and shall obey and abide by and render *himself* amenable to any and all orders made or entered by the District Court of the United States for the Western District of Washington, Northern Division, and will render *himself* amenable to and obey any and all orders issued herein by said District Court, and shall pursuant to any order issued by said District Court surrender and obey and perform any judgment entered herein by the said Circuit Court of Appeals or the said District Court, then this obligation to be void; otherwise to remain in full force and effect.

Scaled with our seals and dated this 5th day of February, 1924.

ALICE SCRIBNER,  
Principal.

NATIONAL SURETY COMPANY.

By RALPH S. STACEY,  
Resident Vice-President.

[Corporate Seal] Attest: J. GRANT,  
Resident Assistant Secretary.

O. K.—C. T. McKINNEY.

I hereby approve of the foregoing bond, this 5th day of February, 1924.

NETERER,  
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [32]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOTTIE POWELL,

Defendant.

SUPERSEDEAS BOND (LOTTIE POWELL).

KNOW ALL MEN BY THESE PRESENTS: That we, Lottie Powell, of Seattle, King County, Washington, as principal, and National Surety Company, of New York, as surety, are held and firmly bound unto the United States of America, plaintiff in the above-entitled action, in the penal sum of Fifteen Hundred (\$1500.00) Dollars, lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the above-named defendant, Lottie Powell, was on the 4th day of February,

1924, sentenced in the above-entitled cause as follows: On Count III of the information to be imprisoned for six months in the King County jail of the State of Washington.

AND, WHEREAS, the said defendant has sued out a writ of error from the sentence and judgment in said cause in the sum of Fifteen Hundred (\$1500.00) Dollars.

NOW, THEREFORE, if the said defendant, Lottie Powell, shall diligently prosecute her said writ of error to effect, and shall obey and abide by and render herself amenable to all orders which said Appellate Court shall make, or order to be made, in the premises, and shall render herself amenable to and obey all process issued, or ordered to be issued by said Appellate Court herein, and shall perform any judgment made or entered herein by said Appellate Court, including the payment of any judgment on appeal, and shall not leave the jurisdiction of this court without leave first had, and shall obey and abide by and render herself amenable to any and all orders made or entered by the District Court of the United States for the Western District of Washington, Northern Division, and will render herself amenable to and obey any and all orders issued herein by said District Court, and shall pursuant to any order issued by said District Court surrender and obey and perform any judgment entered herein by the said Circuit Court of Appeals or the said District Court, then this obligation to be void; otherwise to remain in full force and effect.

Sealed with our seals and dated this 9th day of  
February, 1924.

LOTTIE POWELL,  
Principal.

NATIONAL SURETY COMPANY.

By W. W. CONNER,  
Resident Vice-President.

[Corporate Seal] Attest: J. GRANT,  
Resident Assistant Secretary.

O. K.—THOS. P. REVELLE,  
U. S. Attorney.

Approved:

NETERER,  
Judge.

I hereby approve of the foregoing bond, this  
11th day of February, 1924.

\_\_\_\_\_,  
Judge.

[Endorsed]: Filed in the United States District  
Court, Western District of Washington, Northern  
Division. February 11, 1924. F. M. Harshberger,  
Clerk. By S. E. Leitch, Deputy. [33]

In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIBNER,

Defendants.

SUPERSEDEAS BOND (WILLIAM L. SCRIBNER).

KNOW ALL MEN BY THESE PRESENTS: That we, William L. Scribner, of Seattle, King County, Washington, and The National Surety Company of New York, as surety, are held and firmly bound unto the United States of America, plaintiff in the above-entitled action, in the penal sum of Twenty-two Hundred and Fifty Dollars (\$2250.00), lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the above-named defendant, William L. Scribner, was on the 4th day of February, 1924, sentenced in the above-entitled cause as follows: On Counts I and II of the information, constituting a single offense, to pay a fine of Seven Hundred



and Fifty Dollars (\$750.00); on Count III of the information to be imprisoned for six months in the King County jail of the State of Washington.

And, whereas, the said defendant has sued out a writ of error from the sentence and judgment in said cause to the Circuit Court of Appeals of the United States for the Ninth Circuit.

And, whereas, the above-entitled court has fixed the defendant's bond, to stay execution of the judgment in said cause, in the sum of Twenty-two Hundred and Fifty Dollars (\$2250.00).

NOW, THEREFORE, if the said defendant, William L. Scribner, shall diligently prosecute his said writ of error to effect, and shall obey and abide by and render himself amenable to all orders which said Appellate Court shall make, or order to be made, in the premises, and shall render himself amenable to and obey all process issued, or ordered [34] to be issued, by said Appellate Court herein, and shall perform any judgment made or entered herein by said Appellate Court, including the payment of any judgment on appeal, and shall not leave the jurisdiction of this Court without leave being first had, and shall obey and abide by and render himself amenable to any and all orders made or entered by the District Court of the United States for the Western District of Washington, Northern Division, and will render himself amenable to and obey any and all orders issued herein by said District Court, and shall pursuant to any order issued by said District Court surrender and obey and perform any judgment entered herein

by the said Circuit Court of Appeals or the said District Court, then this obligation to be void; otherwise to remain in full force and effect.

Sealed with our seals and dated this 5th day of February, 1924.

WILLIAM L. SCRIBNER,  
Principal.

NATIONAL SURETY COMPANY,

By RALPH S. STACEY,

[Corporate Seal]            Attest: J. GRANT,  
Resident Vice-President.

O. K.—C. T. McKINNEY.

I hereby approve of the foregoing bond, this 5th day of February, 1924.

NETERER,  
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [35]

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In the District Court of the United States for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER  
and LOTTIE POWELL,

Defendants.

ORDER TO CONSOLIDATE.

This matter coming regularly on for hearing on the oral motion of Adam Beeler, attorney for the defendants herein; it appearing to the Court that a writ of error and a citation thereon has been issued in the case of United States of America vs. William L. Scribner and Alice Scribner, and that the same also has been issued in the case entitled United States of America vs. Lottie Powell; it further appearing to the Court that the defendants, William L. Scribner, Alice Scribner and Lottie Powell, were tried jointly in this Court and that the writ of error herein should be prosecuted jointly, and the Court being fully advised in the premises, good cause being shown,—

IT IS HEREBY ORDERED that the writ of error of William L. Scribner and Alice Scribner, in cause number 7795, be consolidated with the writ of error in the case of United States of America vs. Lottie Powell, in cause number 7795.

Done in open court this 11th day of February, 1924.

JEREMIAH NETERER,  
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division, February 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

Received a copy of order to consolidate this 11th day of February, 1924.

THOS. P. REVELLE,  
Attorney for Plaintiff. [36]

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In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.

No. 7795.

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER  
and LOTTIE POWELL,  
Defendants.

ORDER EXTENDING TIME TO AND IN-  
CLUDING FEBRUARY 20, 1924, TO FILE  
BILL OF EXCEPTIONS.

For good cause now shown,

IT IS ORDERED that the time within which  
the defendants shall serve and file their proposed  
bill of exceptions in the above-entitled cause be,  
and the same hereby is, extended to and including  
the 20th day of February, 1924.

Dated this 11th day of February, 1924.

JEREMIAH NETERER,  
Judge.

Received a copy of order this 11th day of February, 1924.

THOS. P. REVELLE,  
Attorney for Plaintiff,

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [37]

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In the United States Circuit Court of Appeals  
for the Ninth Circuit.

No. 7795.

WILLIAM L. SCRIBNER, ALICE SCRIBNER  
and LOTTIE POWELL,

Plaintiffs in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

BILL OF EXCEPTIONS.

BE IT REMEMBERED that on the 20th day of December, 1923, at the hour of 10 o'clock A. M., the above-entitled cause came on regularly for trial in the above-entitled court, before the Hon. Jeremiah Neterer, Judge thereof; the defendant appearing by C. J. McKinney, Assistant United States Attorney for said district, and the plaintiffs being present in person and appearing by their attorney, Adam Beeler.

The jury having been regularly and duly impanelled and sworn to try the case, the Assistant United States Attorney thereupon made to the jury the statement of the defendant's case and the following evidence was thereupon offered:

TESTIMONY OF J. A. SIMMONS, FOR THE  
GOVERNMENT.

J. A. SIMMONS, a witness produced on behalf of the Government, being duly sworn, testified as follows:

Direct Examination.

My name is J. A. Simmons and I am a Federal Prohibition Agent. On July 5th I had occasion to visit the Star Rooms in the city of Seattle, located at 201½ 2d Avenue, South.

Thereupon Mr. Beeler requested of the Court permission to question the witness with relation to the legality of the arrests, and the request was by the court denied, and to which ruling an exception was duly noted.

The witness continued: A lady called Lottie let me into the premises, I did not know her last name at that time. It is the lady sitting back there (indicating the defendant, Lottie Powell), her name is [38] Lottie Powell. After she permitted me to enter she showed us into the sitting-room just to the right as you go up to the top of the stairs, into this serving room rather, and we asked to be served liquor. She served us with drinks that afternoon. Three drinks of bonded



(Testimony of J. A. Simmons.)

liquor. We paid her fifty cents a drink for this. We purchased it from this girl called Lottie Powell, the one who had admitted us, and did not see Vera Harper that afternoon. Lottie Powell was the only one who was in the building on July 5th at one time. I returned to this place again on the night of July 5th, about 9 P. M., and I was accompanied by Assistant Director Whitney. We were admitted by the larger girl called Vera Harper. After she allowed us to enter we came upstairs in the hall and talked to her and she did not know us but Lottie came out to the sitting-room and said we were O. K., and showed us into the front parlor that faces on Washington Street. They both conducted us into this front room. We ordered drinks that night and we were served with drinks in this front room. Vera Harper served them but Lottie Powell went out and got the serving bottle and glasses or glass. There was only one serving glass. Lottie Powell left the room and got a bottle of whiskey and the serving glass and brought it back and then she requested Vera Harper to do the serving. Vera Harper served Mr. Whitney and me with drinks of bonded liquor. I paid for some of them. The first drinks that I bought I paid fifty cents a drink. I gave Vera Harper a five dollar federal reserve note. Both of the girls, Lottie Powell and Vera Harper, participated in the drinking that night and we paid for those drinks also. There was only one glass. The liquor was in an eight-ounce bottle. While we were

(Testimony of J. A. Simmons.)

there on July 5th at 9 P. M., the girls ordered some whisky. They had stated that they were running short and Vera Harper went to the telephone, which is in the same room, and called a taxicab company. She asked the party that she was talking to to bring up a quart bottle of Hall & Hall. We remained there until the whiskey arrived. They brought the whisky in in the quart bottle that they had been serving from. Lottie Powell went out and came back with it filled up again. After that Mr. Whitney ordered some more. Mr. Whitney ordered a round of drinks and they were served by Lottie Powell at that time. On the afternoon of July 6th, I had occasion to visit this [39] place again about 5:30 P. M. Mr. Whitney and I both went to the Star Rooms, Lottie Powell admitted us. We were then shown into the same front room, this parlor that faces on Washington Street, and we ordered four drinks for the four of us, and I paid for the first four, two dollars (\$2.00), with marked money, that is, fifty cents per drink. Vera Harper served these drinks this day. The whisky was not in the room. Lottie Powell brought it in and Vera Harper served it. They had one serving glass. There were four people, Lottie Powell, Vera Harper, Mr. Whitney and myself that participated in the drinking. Before the last round of drinks Mrs. Scribner came in and she was invited to participate in the drinking by one of the girls but she stated no, that she was not feeling well and had not been for several

(Testimony of J. A. Simmons.)

days and it was her first day downstairs. She left the room at that time and four more drinks were served. The young women, the girls in this case, addressed Mrs. Scribner that night as mamma. They stated that she was the landlady and she was asked to have a drink and she said no, that she had not been feeling well but that the girls would look after us. She was the proprietor of the place. I was present at the time that the girls were arrested. At the time Mrs. Scribner said that the girls were not the ones who were running the place, that the liquor was hers that had been sold and that they were working for her and should not be taken and locked up. She said that they were working for her and under her orders. She said that they were inmates of the place. That bottle (referring to Government's Exhibit Number One for Identification) contains the drink that was served to me just before the arrest which I saved and poured into this bottle on the night of July the 6th. This (referring to Government's Exhibit Number Two for Identification) is the glass in which the liquor was served on the night of July the 6th, at the time the defendants were arrested. That (referring to Government's Exhibit Number Three for Identification) is the bottle of liquor from which the drinks were served on the night of July the 6th, all of the other whisky that was served there was consumed. I participated in the searching of the premises and I searched the desk and that night [40] the small

(Testimony of J. A. Simmons.)

writing desk was locked and in order to get it open we had started to pry it and Mrs. Scribner said: "Don't do that; I have a key for it." We were in search of the marked money which we had given on July the 5th and also on the night of July 6th. I opened the desk and I found marked money. Mrs. Scribner opened the desk with the key she had. I also found marked money in the chiffonier that was in this room that the desk was in. In the room upstairs occupied by Vera Harper in a dresser drawer we found a marked dollar federal reserve note and silver. The federal reserve note was money I gave her on the night of July the 5th. I was not right in the room at the time Mr. Scribner was placed under arrest but immediately afterwards I was. Mr. Scribner stated in regard to his relation to these premises that he was the husband of Mrs. Scribner and that he lived there and did not pay any room and board and that he was the manager of the Bungalow. He did not state that he had any financial interest in this place and he did not deny that he had any interest in it. He heard Mrs. Scribner admit that she was the proprietress of this place.

#### Cross-examination.

My name is Simmons and I am a Federal Prohibition Agent in the employ of the United States Government. I have been a Federal Prohibition Agent since June 1922. I have never been deputized as a United States Marshal, nor Deputy Sheriff, nor

(Testimony of J. A. Simmons.)

Constable nor any police officer other than a Federal Prohibition Agent. That is the only capacity that I was acting in and under which I was operating that night. I just entered the Star Hotel at one P. M. on July 5th. I went there with a man they call Mack, the man that got me into that place. I knew him by Mack but I believe his name was McCrury or something like that. I had not known him very long prior to the time of the arrest. I could not state positively or exactly, it might have been three or four days. I got up there at 1:30 in the afternoon and Mack and I remained there about fifteen minutes and Lottie Powell was the only girl we saw. I purchased three drinks of bonded liquor from her and the liquor was consumed by Mack and Lottie Powell and myself. We did not have three drinks apiece, only one [41] drink apiece. Then I left and went out of the place. I did not do anything else on the premises, on that occasion there. I went back the next time about 9 P. M. that evening and Mr. Whitney went along. Mr. Whitney and I went up ourselves, nobody else accompanied us. We arrived there about 9 o'clock and saw Vera Harper in the hall. Lottie Powell came out of the door on the side of the hall and told Vera Harper we were O. K. They were all we saw that night. I purchased three rounds of four drinks a round and Mr. Whitney bought one round of four drinks. I paid for the first round of drinks with a marked five-dollar federal reserve note. That was on the evening of



(Testimony of J. A. Simmons.)

July the 5th. I paid that money to Vera Harper. I did not give any money to Lottie Powell, Mr. Whitney gave money to Lottie Powell. He gave her two dollars on that night of July 5th. I spent six dollars and Mr. Whitney two dollars, all told eight dollars, a five-dollar bill and a silver dollar of my own, both of which were marked money and Mr. Whitney gave two dollars that were marked. It is not the truth that all the money that was taken by us on that night was given to Vera Harper, and it is not a fact that Lottie Powell was not on the premises that night. I did not see Mr. or Mrs. Scribner there that night. The Star Hotel consists of two different stories above the street. The first entrance you come up is a stairway facing east and west and you turn to the right and go up a short landing before you get up into the main part of these Star Rooms. Then there is a stairway leading up to the right about five feet from the entrance of the stairway from the street that leads upstairs to the third floor. The third floor was the living quarters of Mr. and Mrs. Scribner. On July the 5th I never went on the third floor at all. On my first visit at 1 P. M. and at 9 P. M. I did not see either Mr. or Mrs. Scribner down on the second floor on either of these occasions. On the second visit at 9 o'clock in the evening when Mr. Whitney and I were buying these drinks from these girls in the room that faces on Washington Street and Second Ave. South, there is no number to the



(Testimony of J. A. Simmons.)

room and I do not recall that it had a letter. This was a sort of a parlor, you might call it a living-room, some people might call it that and some people might call it a parlor, it was a serving room, that is what it was. After we bought these drinks [42] on July the 5th Mr. Whitney and I left and we went back again about 5:30 P. M. on the 6th day of July when we went there we stayed long enough to make the two purchases of liquor, which took us about a half hour, before the arrest was made. We made two purchases of liquor. I purchased the first round. Vera Harper and Lottie Powell were both present at that time. At that time Mrs. Scribner was in the room off from the parlor. Neither Mr. or Mrs. Scribner were present in the room. Mr. and Mrs. Scribner did not participate in any of the transactions or any of the conversation and Mr. Scribner did not in any way enter the transaction or conversation on the 6th day of July, the night that we were there about 5 o'clock. He was upstairs. He was not in the room on the second floor. Mrs. Scribner came in there between the serving of the round that I purchased and just before Mr. Whitney purchased the round that he purchased. I paid for the first round and Mr. Whitney paid for the second round. We bought those drinks from Vera Harper. The last drink was purchased from Lottie Powell. Lottie Powell sold some liquor to myself and Mr. Whitney on the 6th day of July at 5:30 o'clock. Mr. Whitney paid for that liquor. I did

(Testimony of J. A. Simmons.)

not myself directly have any dealings with Lottie Powell, other than that she brought in the liquor. When Mr. Whitney and I entered the room on the 6th day of July we first saw Lottie Powell. She met us in the hallway. That is, the young lady sitting on the end is Lottie Powell (referring to the defendant, Lottie Powell) and the lady next to her is Vera Harper. Lottie Powell was in the room when I came in and it is not a fact that she was not in the room at all at that time of July the 6th, and that she came in afterwards. It is not a fact that I and Mr. Whitney were there about twenty minutes, or some matter of that length of time, before she came into the room. That is the truth. It is not a fact that we had had one drink before she came into the place. On the night of the 6th day of July I stayed there quite a long time after the arrest was made. I stayed there from 5 o'clock in the afternoon until 11 o'clock at night. During the period of six hours I had the prisoners in charge. By prisoners, I mean Lottie Powell and Vera Harper, and also Mr. and Mrs. Scribner. We arrested Lottie Powell and Vera Harper [43] and Mrs. Scribner first. Mrs. Scribner was in the room adjoining where we were. Up to that time we had had a conversation with Mrs. Scribner. She had come into the room of her own accord. Vera Harper invited Mrs. Scribner to have a drink. She said she was not feeling very well and had not been for a few days. Mrs. Scribner started the conversation herself. She ex-

(Testimony of J. A. Simmons.)

plained to us that she was the proprietress of the place and that the girls would look after us. That is what she said. I did not ask her the question. She volunteered the statement after she had refused to drink. She did not say she was the landlady, she said she was the proprietress; the girls will look after your needs. I was not attracted to the people on the third floor where Mr. and Mrs. Scribner lived by some woman calling out, "Dinner is ready." I cannot speak for anyone else. I do not know whether I learned of the people on the third floor calling down the stairway that dinner was ready. I stated that I was not present when Mr. Scribner was placed under arrest. Mr. Whitney did that but I was there shortly afterwards. I had left the hotel. I want to change my testimony now, I went over to get some change for Mr. Whitney, who was going to use some money for some other purpose. I do not know what Mr. Whitney was going to do with it but he wanted some change. He gave me a twenty-dollar bill. Yes, I know where Mr. Whitney got the twenty-dollar bill from. He got it from one of the girls. I do not recall whether it was Vera Harper or Lottie Powell. I could not say whether it was from Vera Harper's or Lottie Powell's purse. I could not say positively as to that. I took the twenty-dollar bill and went down the street to a store and got it changed. There were no other women accompanying me and Mr. Scribner on the night of July the 6th, when we

(Testimony of J. A. Simmons.)

placed these women under arrest, Lottie Powell, Vera Harper and Mrs. Scribner were there up to the time of the arrest. Mrs. Mooring and Mrs. Whitney came up there. I could not say what time they came positively. It was around 6:30 or 7 o'clock. I never at any time, either on July the 6th or July the 5th, bought any drinks from the defendant, William Scribner, and I never at any time found any liquor on Mr. Scribner's person. Mr. Whitney and I found liquor in the room occupied by Mr. Scribner. We found it on the washstand in his room. It was in a bottle. I can identify this (referring [44] to bottle) as the liquor we got from the room of Mr. Scribner. My initials are on the bottle as identification marks. They were put on immediately after this was found. This (referring to article marked Exhibit No. 3 for Identification) is the bottle from which the drinks were poured that were served to us. (Referring to bottle marked Plaintiff's Exhibit Number One for Identification) is the drink that was served to me that I saved. This bottle (number four) we found on Mr. Scribner's washstand in his room. The same liquor was in it at the time we found it, I reckon, I do not know. The same amount. (Referring to Government's Exhibit Number 3.) That was the liquor that was taken from Lottie Powell and Vera Harper from which the drinks were served on the 6th of July. Mr. Whitney took it from the hands of Vera Harper. It is in the same condition now

(Testimony of J. A. Simmons.)

as at the time Mr. Whitney took it from Vera Harper. It had a cork in it like this. It is very similar, but I could not say as to whether it is the same in every respect. It is not a fact that neither of these bottles were found by me in the Star Hotel. This liquor in this small bottle (Government's Exhibit Number 1) that was the drink that I saved and poured from the whisky glass into this bottle, which I took with me to the office in order to preserve the evidence. I got that on the night of the 6th of July at the time of the arrest. That was the last drink served to me. Mr. Whitney purchased it from Lottie Powell. That (referring to article marked Exhibit Number 2 for Identification) was the glass that I had the drink in which was poured into that small bottle on the 6th of July. On the 5th of July I had five drinks. They were in this glass here but the glass was not full. I could feel the effect of the five drinks. Mr. Whitney had as many drinks as I had. I could not say whether he could feel the effect of his drinks. When we arrested Vera Harper there was no fight or altercation between Mr. Whitney and Vera Harper at all. When I went on the third story to where Mr. and Mrs. Scribner lived Mr. Whitney did not go with me. He had gone before me. Mr. Whitney went up there just before, just shortly after the arrest was made I had the three women in the front room. I was in the front room and Mr. Whitney went [45] *went* upstairs. He did not stay upstairs



(Testimony of J. A. Simmons.)

a great while. I could not say positively just how long he stayed up there. Other agents had been called in the meantime you understand. Mr. Whitney did not remain upstairs an hour. He remained upstairs possibly about a half hour. While Mr. Whitney was upstairs a half an hour I did not remain downstairs with the three defendants. I went up there a short time afterwards. Mr. Whitney was up there alone just a few minutes before I went up. I did not say for ten minutes. About a period of five minutes. I went up voluntary. At the time I went up there were other prohibition agents there besides Mr. Whitney. There were three or four others that had come in. None of the other prohibition agents had come upstairs and in the apartment occupied by Mr. Scribner and his wife prior to the time that we found the liquor. Mr. Whitney and I searched Mr. Scribner's room. We found the bottle on the washstand, a serving glass or a wine glass, and search through their apartment there. It possibly took us fifteen or twenty minutes. After three women were arrested, about a half hour possibly elapsed before anybody went upstairs to Mr. Scribner's apartment. I do not know whether Mr. Scribner was alone at least half an hour while I and Mr. Whitney were downstairs with the three women who were just placed under arrest, he was upstairs. This bottle of liquor was right out in the open on the washstand where you might see it. We originally placed another woman under arrest. She



(Testimony of J. A. Simmons.)

was the cook there. She was occupying this one room with all the people who occupied this building. I could not say just when she was brought down. It must have been between the time Mr. Whitney went upstairs and when I went upstairs, or it might have been after, I won't say but it was not before we went up. We found some money in the little desk. Two silver dollars. We found some money in the chiffonier, there were three or four silver dollars in the drawer. That money is held as evidence. We got just the marked money that we paid in the chiffonier. The chiffonier was in a room that was between the room Mrs. Scribner was in and the living-room. It was not the sleeping quarters. It was between these premises. It was not the room that was occupied by Vera Harper. That (referring to article marked Exhibit 6 for Identification) is the same five-dollar bill that was in Vera Harper's dresser drawer. It was loose [46] in the drawer, it was not in her purse. We got it out of the dresser in the room she said she occupied. All of the marked money that we found in addition to the five-dollar bill was not found in the purse in the room occupied by Vera Harper. I gave this five-dollar bill on the 5th of July, to Vera Harper. I found it the next day in the dresser drawer of Vera Harper. No marked money was found in the premises occupied by Mr. and Mrs. Scribner. We made a thorough search of the premises occupied by Mr. and Mrs. Scribner, lasting at least half an hour. The apartment con-

(Testimony of J. A. Simmons.)

sists of two bedrooms up there and a dining-room and a kitchenette on the third floor. I did not go through everything myself to see what could be found. All the dressers and cupboards of the place were gone through by myself and Mr. Whitney or possibly some of the other agents, and I found absolutely nothing at all. I found liquor on the washstand, and excepting this liquor on the washstand, I found no liquor concealed. I did not find any device for caching liquor where it might be concealed or hidden away. I helped to take these people down to the immigration station. I did not have any conversation with Mr. Scribner at the immigration station. We may have had a conversation with him on the way going to the immigration station. It is not true that either I or Mr. Whitney said to Mr. Scribner, "We will turn you loose to-morrow morning; we have nothing on you." Nor did we say, "You won't have to put up any bond before the Commissioner because we have nothing on you." Mr. Whitney did not in my presence make such a statement. I don't know where that witness, Mack, the fellow who went with me the first time is, or what his address is.

#### Redirect Examination.

That (referring to Government's Exhibit Number 7 for Identification) is three of the marked silver dollars that we used on July the 5th in purchasing the liquor at the Star Rooms. I identify those dollars by the scratch on the left leg of the eagle. Those (referring to Government's Ex-

(Testimony of J. A. Simmons.)

hibit Number 1 for Identification) are two marked silver dollars used for the purchase of liquor on July the 6th. Those were the drinks that were purchased by me. That (referring to Government's Exhibit Number 6 for Identification) is the federal reserve note used for the purchase of liquor on July the 5th from Vera Harper. That (referring to Government's [47] Exhibit Number 5 for Identification) is the wine glass that was sitting alongside of the bottle of whisky found on the washstand in Mr. Scribner's room on the third floor in the Star Rooms. That (referring to Government's Exhibit Number 1 for Identification) is a bottle found on the washstand in Mr. Scribner's room. The money that I referred to on cross-examination was taken from the chiffonier. Vera Harper stated that the chiffonier was hers.

#### Recross-examination.

These notations on these envelopes were made immediately. The same time we labeled the evidence on the liquor I wrote all the information that I thought necessary on the envelopes that contained the money I believe that I placed the names of the parties from whom I got the money on the envelopes as I put the money in the envelopes. That (referring to Government's Exhibit Number 9 for Identification) was not taken by me from Vera Harper. The marked five-dollar bill (Exhibit 1) or treasury note was in Vera Harper's dresser drawer. The rest was found in the chiffonier or the writing desk downstairs. I

(Testimony of J. A. Simmons.)

think the five-dollar bill found in the dresser drawer of Vera Harper was Vera Harper's because at that time I thought it was hers. I did not write that Mr. Whitney wrote that. (Referring to writing on envelope.) All of the money that we got and that has been offered in evidence was not taken from Vera Harper or from her place in that room where she was living.

#### TESTIMONY OF W. M. WHITNEY, FOR THE GOVERNMENT.

W. M. WHITNEY, a witness produced on behalf of the Government, being duly sworn, testified as follows:

##### Direct Examination.

I am a Federal Prohibition Agent and have been in that service a little over two years. During the month of July I had occasion to visit 2011½ 2d Avenue, South, known as the Star Rooms. At about nine o'clock on July the 5th, I accompanied Agent Simmons to the Star Rooms. Vera Harper permitted us to enter those rooms. After we got inside she stopped to talk to us in the hallway and just as we started the conversation Lottie Powell [48] came out of one of the serving rooms along this long hallway and said, "Oh, they are all right." Then they took us down to the room furthest north, which is in the northeast corner. We entered this room, the bell rings if you go up and if you open the door it rings a bell and some of these women come out and meet you. There

(Testimony of W. M. Whitney.)

are four serving rooms along there. Right alongside of this hallway.

Thereupon the witness was asked whether or not those rooms were furnished, to which question Mr. Beeler objected and which objection was by the Court overruled. Mr. Beeler thereupon moved the court that the testimony of the witness to the effect that these were four serving rooms be stricken, which motion was denied and to which ruling an exception was taken.

The witness continued: There is no bedroom.

The Court thereupon made the following statement: "I will say in this connection that the jury will not be bound by his conclusions as to what the rooms were. He is simply defining the rooms. Let the jury conclude what they are used for.

The witness continued: There is a little stand or small table in each room and there are two or three or four chairs in each room, and a little settee, as I call it, in each of those four rooms, or a sofa. The room to the north of the hallway, the door into that room looks directly down the hallway. It is sort of L-shaped, that is, it sets across the hallway and joins the other room along the east side. We were shown into this furthest room, the one that sets across the end of the hall and also joins the room that is to the right of the hall. We asked for whiskey when we went into that room and we got some. Mr. Simmons purchased three rounds of four drinks



(Testimony of W. M. Whitney.)

and I purchased one round of four drinks. A serving bottle and serving glass were brought into the room by Lottie Powell. She went out of the room in which we were into the room to the south, and she left the door open. I was sitting in a chair looking right down the line of doors, and she went through that room to the next serving room and shut that door and I could not see where she went then. When she came back she brought an eight-ounce serving bottle partly filled with whiskey [49] and a small serving glass. We were served from that bottle. We paid for those drinks, fifty cents per drink. Mr. Simmons gave Vera Harper a five-dollar bill and one silver dollar. I bought two drinks that night. They were served and poured by Vera Harper. The bottle was brought in by Lottie Powell. I paid two dollars for those drinks. There was not very much in the bottle after we had bought a round or two and about the time the last drink was poured out the defendant, Vera Harper, went to the telephone in the room in which we were served and called up a number, which I know to be a certain taxicab company here, and asked them to send down another bottle, giving them the name of Alice. She said "This is Alice." In the course of ten or fifteen minutes the bottle was brought down, or at least the girl said so, and Lottie Powell went out and got the bottle and refilled it again and brought it back, and it was out of the refilled serving bottle



(Testimony of W. M. Whitney.)

that I bought the last round of drinks which were served by Vera Harper, and Vera Harper was paid the money. After we were served with this last round of drinks we left. I again visited these premises on the following evening at about 5:30. Mr. Simmons was with me. My memory is that Lottie Powell let us in the hallway. Anybody just walks in and the bell rings as you open the door. We bought drinks that night. We went right back to the same serving room and the two girls were there. Mr. Simmons bought the first round of drinks and I bought the last round of drinks. Lottie Powell brought the whisky and serving glass in that night. I made an error when I said a minute ago that Vera Harper served the last drink the night before. Lottie Powell served us after she brought the serving bottle in and after it was refilled. These women participated in the drinking. We paid for their drinks along with our drinks at fifty cents per drink. The last round of drinks I paid for that night on the 6th. The first drink was given to me and I drank it, and I then took two silver dollars out and attempted to give them to Vera Harper, and she said, "I am too busy now; just lay them down there." And Mr. Simmons was then served the drink he saved. After Mr. Simmons had been served his drink I put them under arrest and I told them that we were federal officers and that they were under arrest. I arrested at the first moment both Lottie Powell and Vera Harper,

(Testimony of W. M. Whitney.)

and then I [50] stepped into the adjoining room in which Mrs. Scribner was in. She had not been in that room before that night, but she had been in there just a few moments before that. Mrs. Scribner had been in that particular room where we were drinking before on this same night. One of the girls said, "This is our mamma." And she came over and sat down and engaged in the conversation. She was invited to have a drink both by Vera Harper and by myself. We talked there for a few minutes, probably, on general things, and I said, "We missed you last night." She said, "Well, I was sick last night." I said, "Won't you have a drink with us now?" She said, "Oh, no, I am not feeling very well. The girls will take care of you." I said, "You are the landlady here?" That is one of the things I was there for to find out, and that is one of the reasons why we did not arrest them the night before because I did not see her there then. I asked her if she was the landlady and she stated that she was. She left after she had declined to drink and after she said the girls would take care of us, she went back into the other room and sat at this table. There is a little table in that room and she was reading a paper at that table. That is the place where I arrested her. That is the place where she had her writing desk, and a sort of chiffonier. After I arrested her I brought all three of the women into this room we were served, and when she came in I immediately phoned for the other

(Testimony of W. M. Whitney.)

agents to come down. After I arrested Mrs. Scribner a short time after the other agents arrived I turned them all over to Mr. Simmons. Mrs. Scribner said, "You are not going to take the girls down, are you?" I said, "Yes." She said, "They only work for me here. I am the landlady. I am responsible for anything that goes on here, and they are simply serving and working for me. They do not have anything to do with it." I know the nature of the work they were doing for her. Mrs. Scribner stated what kind of work they were doing. The prisoners, Mrs. Scribner, Lottie Powell and Vera Harper were arrested on the second floor. I searched the third floor but before I did that we took the prisoners back into the first serving room at the head of the stairs, that is the furthest room to the south on the same side of the building, and put them in that room with Mr. Simmons; and then when the other agents came down, which was [51] probably about five minutes afterwards, as they only had to come about three blocks, I then went upstairs on the third floor. On the third floor I found a dining-room and a kitchen and the table all set for dinner, and the cook and Mr. Scribner. He was in the living-room of himself and Mrs. Scribner, in the bedroom. I do not remember what he was doing, he was standing up in there. I placed him under arrest. I told both him and the cook to come downstairs. I brought them both downstairs and put them in the same room with Mrs. Scribner and the girls

(Testimony of W. M. Whitney.)

with Mr. Simmons. Then I put another agent in charge and took Mr. Simmons and Mr. Justi, and we went up on the third floor immediately. I saw Mr. Justi find a bottle of beer in the ice-box in the kitchen. Mr. Simmons and I walked right straight into the room occupied by Mr. and Mrs. Scribner, and on the washstand was standing an eight-ounce bottle of whisky and a serving glass. I do not recall that at any time while I was downstairs did I hear anyone call or ring or say it was dinner time. I heard someone moving about upstairs. It is a rather difficult matter for anybody who does not know these places— I had not seen this stair leading to the third floor when I first walked out quickly on the second floor to the other room. The second floor, as well as the third floor, belonged to two separate buildings; in other words, Mrs. Scribner rents from two landlords, or there are two buildings. There is a sort of an archway cut out. I had gone over to the western part of the second floor rooms and gone quickly down through to see if there was any liquor inside; then when I came back around near the head of the stairs that go up from the second floor I heard someone moving around upstairs, but I do not recall anybody saying, "Dinner is ready." That was the first time that I had noticed this stairway that I had missed before, and then I went up on the third floor. At the time I arrested Mr. Scribner he did not at first make any statement to me. Afterwards he stated that he

(Testimony of W. M. Whitney.)

lived there and that he and Mrs. Scribner were husband and wife. He said that he was manager of the Bungalow Dance Hall and worked up there; and he asked me either to let him go up there or call somebody to come down and get the money that was to be used that night up there. He stated that Mrs. Scribner was the [52] proprietress of this place and that he did not have anything to do with it. He said she was running the place. After we got through searching the third floor Mr. Simmons and I searched for the marked money, which we found. I found a five-dollar bill in the dresser drawer of the room occupied by Vera Harper, which room was, as I recall it, on the second floor to the right of the hall. These service rooms are all on the east side of the hall. I found in a box, with a number of other trinkets where she kept the money, several silver dollars and this five-dollar bill and two or three other bills. Then we went to the room in which Mrs. Scribner was sitting when I arrested her and where I had seen Vera Harper take the two dollars after we had bought the first round of drinks and apparently put them in the chiffonier drawer. We also in there found four of the marked silver dollars, two of which had been used on the previous day and two of which were used on July the 6th. Mrs. Scribner had come in that room, or had been brought in, as I was going to force the desk when she said that she had a key and it was her desk, and she produced a key that she had and unlocked the desk. She unlocked the desk herself and I searched the desk. In a little



(Testimony of W. M. Whitney.)

box in the desk was one of these silver dollars among quite a number of silver dollars—one of the silver dollars that we used on July the 5th. The marked money in the chiffonier was found in two different drawers. There were a lot of silver dollars and silver half dollars in these two drawers of the chiffonier. After Mrs. Scribner was arrested she stated that she was the proprietress of the place, and she said that the girls were working for her and wanted us not to take them. That (referring to Government's Exhibit Number 1 for Identification) is the last drink that was served to Mr. Simmons. That (referring to Government's Exhibit Number 2 for Identification) is the serving glass that we were served from the last night. That (referring to Government's Exhibit Number 5 for Identification) is the glass that I found in the premises of Mr. Scribner on the washstand beside the bottle of whisky kept by Mr. and Mrs. Scribner. That (referring to Government's Exhibit Number 4 for Identification) is the bottle of whisky which we found on the washstand in Mr. Scribner's room on the third floor. That (referring to Government's [53] Exhibit Number 6 for Identification) is the five-dollar silver certificate that was used by Mr. Simmons on the night of July the 5th. It was found in Vera Harper's dresser drawer. That (referring to Government's Exhibit Number 7 for Identification) is the three dollars which was used by Mr. Simmons and another was used by myself and another was used in the purchase on July



(Testimony of W. M. Whitney.)

the 5th. I identify that money by the dates which I had down, and a scratch on the left leg of the eagle. These (referring to Government's Exhibit Number 9 for Identification) are the two silver dollars that Mr. Simmons paid for the first round of drinks on the night of the 6th. Those (referring to Government's Exhibit Number 8 for Identification) are the two silver dollars that I marked with the scratch across the left leg of the eagle and used to buy the last round of drinks. We found these on the washstand where I laid them—not on the washstand, but on the small table or stand. That (referring to Government's Exhibit Number 10 for Identification) is the bottle of beer that was found in the ice-box by Mr. Justi, one of my men, in the kitchen on the third floor on the premises of Mr. and Mrs. Scribner.

#### Cross-examination.

I am a prohibition agent and was such in the month of July of this year. I was acting in such capacity at the time of this arrest. I was not acting in the capacity of a marshal or deputy sheriff. I have been deputized as an arresting officer of that character. I do not know whether my commission has ever been sent in or not. I had a commission as deputy sheriff. The first time I went to this hotel was on July the 5th, 1923. I got down there about nine o'clock. Mr. Simmons accompanied me. It was on July the 5th that Mr. Simmons gave Vera Harper this five-dollar bill. It was taken the next evening from Vera Harper's room, from what she

(Testimony of W. M. Whitney.)

said was her room. There were some letters addressed to her in that room. Mr. Simmons and myself actually took it out of the little box in the drawer. There was quite a little silver in the box and some currency and some trinkets and the whole box and some other things. I think there was a purse also taken down to the room where the prisoners were. Mr. Simmons took that down there. Yes, there was a purse taken down [54] but I took no money out of the purse. On the night of July the 5th Mr. Simmons bought the last three rounds of drinks, making altogether sixteen drinks. It was necessary to buy that many drinks in order to discover that this was intoxicating liquor for the reason that there was very little whisky in the bottle, that is, not very little, but it was not filled, and I was not exactly sure where the cache was, and that is what I wanted to find. I knew that by buying sufficient number of drinks that the immediate supply would be exhausted, and she would have to go to the reserve supply, and we would thereby have a better chance to find out where it was hidden. And the main reason was this: When the whiskey was about to be exhausted at the end of the second round of drinks the defendant, Vera Harper, called up a taxicab company which I had been very anxious to get a hold of, and it occurred to me that by staying there and not arresting them that night that I could be prepared to have someone else present on the following evening, some women, and I could call up the same taxicab company, using

(Testimony of W. M. Whitney.)

the very same name of Alice which this girl had used, and get them to make a delivery to me, and then arrest them with the evidence on them. The next night I did have a woman call up and give her name as Alice, the woman was my wife. My wife gave her name as Alice in my presence. Her name is not Alice. It was about ten or fifteen minutes after we got there that she called up and gave her name as Alice. Some people came in response to that call and delivered a bottle of liquor. On the night of the 6th of July I was there until 10:30, I should say, possibly not so long. I got there near six o'clock. When I first arrived there I found Vera Harper and Lottie Powell on the premises and in the adjoining room, Mrs. Scribner. I think she was in that room. I heard somebody in the room, in the adjoining room. She came into our room from that adjoining room. I did not hear anybody call down and say, "Dinner is ready." I did not know anyone was on the third floor until I heard some noise on the third floor when I was near where this stairway goes up. I was in the hotel ten minutes after the arrest, I think, before I found out that somebody was on the third floor. I was there before I made the arrest possibly about the same length of [55] time. so I was there about twenty minutes before I found out that anybody was upstairs. I did not say I heard anybody call down that, "Dinner is ready." I did not hear it. I did not testify in direct examination that somebody called down. I did not say that.

(Testimony of W. M. Whitney.)

The cook was preparing dinner and she had it on the table, or practically so, when I went up and walked in there. The reason I did not make the arrest on the 5th of July was that I wanted to kill as many *as many* birds with one stone as I could. We do that very often. When I was there on the 6th day of July I never knew that there was anyone else there until after I had arrested the women downstairs. I would have known that somebody was upstairs even though someone had not called it to my attention. I think I would have found that stairway before I got through with the search. I did not attempt on the 5th of July to find out about this stairway leading to the third floor. If I had I would have disclosed my identity as a prohibition agent and I was not ready to do that. On the 6th of July when I arrested these women I did not know that Mr. Scribner was upstairs. I did not know who was the proprietor at that time. On the 6th day of July when Mrs. Scribner came into the room where I and Lottie Powell and Vera Harper were I asked her to have a drink. Vera Harper had already asked her and I asked her also in the course of the conversation. I asked her to have a drink because I wanted to find out everything I could in the place. I was not down there merely to drink the whisky. I was down there to get evidence. She refused to take a drink, then I asked her again. I do not remember the answer she made to Vera Harper, but when I asked her she said she was not feeling very well, and that the

(Testimony of W. M. Whitney.)

girls would take care of us. She then refused a second time. I did not say, "Sit down and be a good fellow and have a drink." Nor did I say, "Come on and let's have a drink." I did not ask her repeatedly to have a drink, I only asked her once. Vera Harper did not tell me that Mrs. Scribner had absolutely no knowledge of the fact that she was selling these drinks. Mrs. Scribner had been in there and saw the bottle and the serving glass and had been asked to drink and saw it there. When Mrs. Scribner came into the room Lottie Powell said, "This is our mamma." They did not actually speak of her to me before I actually saw her. They just said [56] that as she came in. She said, "This is our mamma." And we both spoke to Mrs. Scribner and she spoke to us and sat down. We did not get friendly with her and call her mamma. But we asked her to take several drinks with us and she did not drink. We did not ask Mr. Scribner to have a drink with us. He was upstairs. He did come downstairs. I did not invite him downstairs to have a drink. I invited him downstairs and told him I was a prohibition agent. I never asked him to have a drink any place. I had a couple of talks with him in the course of the evening. I do not recall going to the immigration station with Mr. Scribner, although I may have gone. I think I sent somebody else. Part of the conversation with Mr. Scribner was when he asked me, "Why do you arrest me? You didn't find any liquor in my apartment." There



(Testimony of W. M. Whitney.)

were some words used to that effect. In response to his question I did not tell him, "I will let you out in the morning. We have no case against you, Mr. Scribner." Nor did I tell him, "You will be given a hearing before the United States Commissioner and he will dismiss you. We have no case against you." I think he stated to me something about his bond, of how much his bail would be, and I told him the commissioner would fix that. That I could tell how much it would be. After he asked me whether or not I would require bail from him I told him that bail would be required. Mr. Scribner had told me that his wife was running the place, and I said, "Do you pay any room rent or board here?" and he said, "No." I said, "Do you live in this place?" and he said, "Yes." I said, "Do you live with your wife?" and he said, "Yes, I do." He said that he worked at night in the Bungalow Cafe and was the manager of the Bungalow Cafe up on Third Avenue. I believe it was at that time a cafe and dance pavilion combined. It was at one time like a lot of other dance-halls in the city. I am not certain what the character of it was at that time, as I had not been there. If he told me how long he had been running it I do not remember. If since April of this year, that would be about two or three months. He did not also tell me that he had been living in the city during September, October, November and probably also December of last year. He did not tell me that he had no management or interest at all in these premises or



(Testimony of W. M. Whitney.)

that he had been down in California. I asked him what he was doing around this [57] house of prostitution, and I asked him if he paid any room rent, or paid any board or had any books of account with his wife, or paid her anything, and he said he did not. And I said that he was one of the proprietors, and if he had anything to say about it he could tell it to the Commissioner, and the Commissioner would be the one to judge whether it was enough to hold him on. He said he was a Spanish-American war veteran and I said he ought to know better than to be in the business he was in. I did not tell him that I would let him out to-morrow morning. I told him I would file charges against all of them to-morrow morning and they could put their bail the next morning. I volunteered the statement of "What are you doing around this place of prostitution, or house of prostitution," that night. That statement was prompted because when he was saying that he did not have anything to do with it it was very obvious that he was living there with his wife and that he did have something to do with it. At least it was obvious to me. Mrs. Scribner and the girls both admitted that this was a house of prostitution. I knew this on the 5th of July and I took my wife down there on the 6th of July to find liquor. I had her down there from 5:30 o'clock until 10:30 o'clock. I took my wife down to a house of prostitution and had her telephone and use the name of Alice. We bought liquor from about four or five different concerns.

(Testimony of W. M. Whitney.)

I found this bottle in Mr. Scribner's apartment on the third floor on the washstand. I think there were two or three empty whisky bottles up there. I did not find any other liquor in Mr. Scribner's apartment. I think there were two bonded whisky bottles in the room in the bottom part, as I recall it, of this washstand. I did not say that I was downstairs twenty minutes before I went upstairs to see Mr. Scribner. I did not say it was twenty minutes. Yes, I will say that it was about twenty minutes from the time we entered the place or about ten minutes after the arrest. I was on the second floor about ten or fifteen minutes before I went upstairs to the Scribners' apartment. I did not look at my watch to see as to how it was. But these things went off almost like you would tell them. Mr. Simmons was mistaken if he said I was down there about half an hour before I went upstairs, if he said it was that long. We bought only two rounds before I went upstairs. We arrested them on the second round. When we came into the place [58] we walked right in and sat down. Lottie Powell went out and got a bottle of whisky. We told her we wanted another drink. Nobody ran. It didn't take any longer than merely to make the request and she walked out and went into the second room. It is not true that I was there almost an hour downstairs. There was not enough commotion downstairs when I made these arrests to attract the attention of Mr. Scribner, because he did not know anybody was in the house.

(Testimony of W. M. Whitney.)

The cook had gone ahead and was preparing the meal, and he was very much surprised when I walked up there. At the time I arrested him Mr. Scribner told me that he did not know there was anybody in the house. Vera Harper and I did not get into any altercation at the time I arrested her. and I did not knock over any chairs. I did not touch her arm. I reached over and took the bottle of whisky out of her hand. I did not grab her by the other arm or do anything of the kind. When I had Mrs. Scribner under arrest later on I asked her some questions. She had made many voluntary statements first, and asked me not to take the girls down. She never made the statement at all, "Mr. Whitney, why do you want to arrest me? You have gotten no liquor from me." I do not know whether she was anxious to be arrested or not. She did not tell me, "I had nothing to do with this in any way, nothing to do with it." She pleaded for us not to take the girls because they were not responsible and they were only working for her. She was perfectly willing to go to jail because she knew she had to go. My wife called up two people that night and in one instance she gave her name as Alice. It was the first place she called, the first time. The other agents of whom I spoke of as coming down there: Mr. O'Hara was in the room all the time. I think in the parlor, where the telephone was. Mr. Justi and Mr. Montgomery and Mr. Linfield were downstairs most of the time. I do not know whether Mr. Pickett was there or

(Testimony of W. M. Whitney.)

not. But at the time the three women were arrested there was no one there but Mr. Simmons and myself. I phoned for them. They were waiting at the office until I phoned them. I think I had placed Mr. Scribner under arrest by the time these other agents came down. I am not so sure whether I did—whether I had brought him downstairs or not, but I think I had brought him downstairs by the time or before the other agents arrived, I think I had, I am sure of it now. I am not so [59] sure of the detail, as to whether it was before or after. There is no way I can refresh my memory so as to give the jury accurate information on that. It really does seem to me that Mr. O'Hara was there at the time, but I am not so certain. I know that I had told Mr. Simmons to take the prisoners down to the far room. I am sure that Mr. O'Hara was there. I am not certain, I think he was there but I am not sure. They did not all come from headquarters together. Some remained outside until I called them up. These four or five additional agents did not all come down at one time. I know that because they did not all come upstairs. I think I phoned twice to the office to get some additional help. Mr. Simmons was not upstairs with me at the time I arrested Mr. Scribner. I brought Mr. Scribner and the cook down and put them in Mr. Simmons' charge. I think about that time, or probably a little before, the other agents had come and I put one of the other agents in charge of the prisoners

(Testimony of W. M. Whitney.)

and took Mr. Simmons upstairs to make the search. That is what I was testifying to a few minutes ago. I went upstairs alone, and as I told you when I heard this noise on the upper floor I went up and brought the cook and Mr. Scribner down and put them in Mr. Simmons' charge in this room near the head of the stairs. Then a few minutes afterwards I put one of the agents in charge of the prisoners and Mr. Simmons and Mr. Justi and I began search of the premises and we three went upstairs on the third floor. When I first went up there I was not there alone with Mr. Scribner. I just walked in and saw him there, and I said, "Who are you?" And he said, "I am Mr. Scribner." I said, "I am a federal officer and I want you to come on downstairs with the rest of them here." He said, "I don't know anybody else here in the house." Then I immediately conducted him downstairs. Up to that time I had not found Mr. Scribner's whisky. I do not believe I did find any because Mr. Simmons and I went upstairs and found it on the washstand. The cook was with the other prisoners. I placed the cook under arrest; she was down there; the cook did not go back upstairs until after we searched the premises. I let them all go upstairs and eat dinner before we went down to the immigration station, which was probably an hour and a half afterwards. I went right up on the third floor and walked right in the door and says, "Hello, who [60] are you?" And Mr. Scribner came right down with me. He came voluntary. Why wouldn't



(Testimony of W. M. Whitney.)

he? He was under arrest. The cook also came down with us. I do not know which preceded or followed, but we all three went down at the same time. I thought it necessary to take the cook down there because I had to search the place yet and I was going to get everybody together in one room because there would be no opportunity for anyone to destroy liquor or smash it or conceal it or throw it out of the window. I do not know how many rooms there are altogether upstairs, but there were three right along in a row, the dining-room, kitchen and bedroom of Mr. and Mrs. Scribner. I never went through those rooms at all before I went downstairs. I did not know that there were no other persons in any of these other rooms before I went downstairs with Mr. Scribner. This liquor (referring to Government's Exhibit Number Three) I took out of Vera Harper's hand and kept it. The cork was not in the position that it now occupies, at the time I grabbed it. I turned the liquor over to Mr. Kline and you can ask him what he did with the cork.

#### Redirect Examination.

My wife gave the name of Alice over the telephone because I wanted to get this taxicab driver to which that name had been given before. One bottle of beer was found upstairs in the ice-box in the kitchen. Mr. Justi found that. I knew he found it because I saw him find it.



TESTIMONY OF WALTER M. JUSTI, FOR  
THE GOVERNMENT.

WALTER M. JUSTI, a witness produced on behalf of the Government, being duly sworn, testified as follows:

Direct Examination.

(By Mr. McKINNEY.)

Q. You are a federal prohibition agent, Mr. Justi?    A. Yes.

Q. How long have you been in that service?

A. Over two years.

Q. Did you have occasion on the night of July 6th to visit 201½ Second Avenue, South, the premises known as the Star Rooms?    A. Yes.

Q. Did you assist in searching that building?

A. Yes.

Q. I show you Government's Exhibit No. 10 for Identification. Did you ever see that before? and if you know what it is state to the jury.

A. That is the bottle of beer I found in the ice-box in the kitchen on the upper floor.

Q. On what floor, the first, second or third?

A. The third floor.

Cross-examination.

(By Mr. BEELER.)

Q. Is that all you found there, this bottle of beer?

[61]    A. Yes, that is all I found.

Q. You made a very exhaustive search, did you?

A. I looked through the kitchen thoroughly and looked through the pantry.

(Testimony of Walter M. Justi.)

Q. Did you make an exhaustive and careful search?    A. Yes, I believe I did.

Q. I want to find out whether your search was complete all over the house?

A. Not all over the house, no.

Q. Did you look in the drawers and under the beds and all over the place for liquor?

A. No, sir.

Q. Where did you look?    A. In the kitchen.

Q. Only the kitchen?    A. Yes.

Q. That was the only place?

A. That was the only place that I looked.

Q. On what floor was that?

A. On the third floor.

Q. What time of night did you make this search?

A. I do not recall exactly, but somewhere, I would imagine about 6:30 o'clock, or 6:00.

Q. Who was upstairs at the time you searched this place?    A. No one.

Q. Were you there alone?

A. You mean the occupants of the house?

Q. Were you there alone in the kitchen?

A. No, Agent Whitney came in just about the time I opened the ice-box.

Q. Was anybody there besides you and Whitney?

A. No, not when I found the beer.

Q. Did you see the defendant, Mr. Scribner?

A. Yes.

Q. Was he up in his room or was he downstairs?

A. He was on the second floor.

(Testimony of Walter M. Justi.)

Q. Who accompanied you down to the Star Hotel?

Mr. McKINNEY.—I object to that as not proper cross-examination.

The COURT.—Objection sustained.

Q. One more question, Mr. Justi. Was Mr. Simmons upstairs with Mr. Whitney?

Mr. McKINNEY.—I object to that.

The COURT.—Objection sustained. He has already answered that question.

Mr. BEELER.—Exception.

Q. Was Mr. Whitney the only one that was with you?

Mr. McKINNEY.—I object for the same reason.

The COURT.—He has answered the question before.

Mr. BEELER.—Exception.

### TESTIMONY OF C. W. KLINE, FOR THE GOVERNMENT.

C. W. KLINE, a witness produced on behalf of the Government, being duly sworn, testified as follows:

#### Direct Examination.

I am a Federal Prohibition Agent. I take charge of all liquor seized by federal agents and analyze it for its alcoholic content. (It was admitted by the defendant that the liquor produced against the defendant contained over one-half of one per cent per volume.) [62] I received this whisky from

(Testimony of C. W. Kline.)

Mr. Whitney. It is fit to be used for beverage purposes.

Thereupon Mr. McKinney offered in evidence Government's Exhibits marked Numbers 1 to 10, inclusive, which exhibits were admitted without objection.

Thereupon the Government rested.

Thereupon the defendant, Vera Harper, entered a plea of guilty to counts 1, 2, and 3 of the information, leaving only count four to be considered by the jury as to the defendant, Vera Harper.

Thereupon the defendants demurred to the sufficiency of the evidence as to the defendant, Vera Harper, on count four of the information, and moved that the case as to the said Vera Harper on the said fourth count be taken from the jury and that she be released under that count; and the said defendants also at said time entered a demurrer to the sufficiency of the evidence as to the defendants, William L. Scribner and Alice Scribner, which said demurrers and motions were by the Court denied as to all the parties, and to which ruling an exception was noted.

#### TESTIMONY OF VERA HARPER, IN HER OWN BEHALF.

VERA HARPER, called as a witness in her own behalf, being duly sworn, testified as follows:

My name is Vera Harper. I am one of the defendants in this case. I am twenty-four years old. I have never been arrested or convicted of any

(Testimony of Vera Harper.)

offense before in my life. I am now living in the Star Rooms and started to live there a year and a half ago. I was living there in the month of July of this year. I am a dressmaker by occupation, doing day work at the hotel. I first met Lottie Powell, one of the defendants in this case, when I was making a dress for her during the latter part of June. I was there on the 6th day of July, the evening of the 6th day of July, when Mr. Whitney and Mr. Simmons came there. Sometime in the evening Mr. Whitney and Mr. Simmons came up to the Star Rooms and I answered the door, and they asked me for a drink, and I told them that we had none, and they kept coaxing me for a drink, and I said, "No, I have no drinks." Mr. Whitney said, "Oh, yes, you have. Come on and give us a [63] drink." I said, "No, I am not selling any liquor." Mr. Whitney said, "Oh, yes, come on and give us a drink." And they kept on coaxing me so that I did sell them a drink, and they gave me five dollars, and they had a few more drinks. On the way out Mr. Whitney took some silver dollars out of his pocket and laid them on the table and he said, "That is for the rest of the drinks." I do not know whether it was two or three dollars that they left that night. On the 5th day of July Mrs. Scribner was not down in the rooms and she did not know anything about the transaction I had with Whitney and Simmons. Mr. Scribner did not know anything about that, neither of them were there at the time, and neither of them knew that I

(Testimony of Vera Harper.)

had this liquor that I disposed of to these officers. Lottie Powell was not in the hotel at any time on the 5th day of July. She never assisted or did any disposing of the liquor as testified by the officers. I next saw the officers the next evening between 5 and 5:30, July the 6th. Mr. Whitney and Mr. Simmons arrived between 5 and 5:30. Mr. Simmons and Mr. Whitney came in and I answered the door to them again, and they said, "Well, we are back again." I said, "Yes, I see you are." They said, "We would like to have another little shot." I said, "Well, I have none." Mr. Whitney said, "Oh, yes, you have. Come on and give us another little drink." So I took them into the parlor and sat them down, or rather in the sewing-room where I was doing my work, and I took them in there and sat them down. Just as I was going to serve the drinks Mrs. Powell came in for a fitting, and they saw her standing out in the other room and they said, "Hello, there, how are you? Come in and have a drink with us." So Mr. Whitney invited her back and we had one drink, and Mr. Simmons paid me for that drink. And Mrs. Scribner came in during the time between that drink and the next drink to use the phone, and she just looked at us and saw who was there, and turned around and walked out of the room. And Mr. Whitney ordered another drink, and the arrest was made on the second drink. At the time Mr. Whitney wanted to take the bottle away from me I started backing off and he grabbed my arm



(Testimony of Vera Harper.)

and tipped over a chair and a door was slammed and it caused quite a little commotion and noise. On the 5th of July there was a five-dollar bill passed by prohibition [64] agents. This bill was given to me. I put it in my room in the chiffonier drawer in my velvet jewel-box. This money belonged to me and neither Mr. or Mrs. Scribner had anything to do with it. The next day when the officers arrived they found this five-dollar bill still in my box in the chiffonier drawer. Some of the silver dollars that were passed on the 5th of July were also in the box. Some of them were in the desk which I had possession of. That desk was a little chiffonier which Mr. Whitney spoke of as Mrs. Scribner's desk, but it was not. The officers were going to break into the desk and I told Mrs. Scribner that there was no use of them breaking into it, that I had the key, and Mrs. Scribner opened the desk with the key that I gave her. Mrs. Scribner knew nothing about the fact that I had disposed of liquor to these federal prohibition men previous to the time of the arrest on July the 6th. The money that they paid for these drinks on the 6th of July, two dollars, was in the chiffonier, and two dollars was in the room which we were arrested in. At the time of the arrest Mrs. Powell and myself were arrested first by Mr. Whitney. Mr. Whitney asked for the bottle and I held back and he grabbed my arm and took the bottle away from me. Mrs. Scribner happened to be out in one of the other rooms and he went out and arrested her.

(Testimony of Vera Harper.)

Then we were put in one of the big rooms. We were kept there from the time of the arrest until 10:30 or 11 o'clock, before we were taken to the Immigration Station. That bottle (referring to Government's Exhibit Number 10) belonged to me. I put it in the ice-box and was going to have it for my dinner. That serving bottle was the serving bottle from which I served them, but there was not that much liquor in it when I got through serving. It was only about half full when Mr. Whitney took it away from me. I had served eight drinks out of the bottle at that time. It was a third or half full. That bottle (referring to Government's Exhibit Number 4 for Identification) I know nothing of it. I never seen it. I never used the expression of mamma or anything like that to Mrs. Scribner.

#### Cross-examination.

About one o'clock on the afternoon of July the 5th I was in the Star Rooms. I was there by myself and Mrs. Scribner was upstairs. I have never gone under the name of Lottie Flynn. I have never been [65] *been* arrested by city police. I was there myself at one P. M. on July 5th, 1923, and I never saw Agent Simmons or McCrury in the house. I never sold Simmons or McCrury a drink on July 5th and I never saw them there then. I would not recognize McCrury if I saw him here to-day. There was no drinking on July 3d. I was in the house on that day. I do not occupy this whole second floor by myself. There are roomers on the second floor. We have transients there. I

(Testimony of Vera Harper.)

am not the proprietress of the place. Mrs. Scribner is. I believe there is a register for that hotel. I have seen it. Yes, I know there is a register. I do not know who was the last person registered in the hotel register. We had roomers right up to the time of the arrest. I am a dressmaker and have been in that occupation three or four years. I have done day work in the city of Seattle for different people. I have friends that come to me and one friend usually brings another. One customer usually brings another in that line of business. I was making a white sport dress for Lottie Powell. I was charging her \$20.00. I do not know the definite time I put on the dress, but I put in quite a while. I work by the hour. I do not remember how long it took me to make this dress. I charged her \$20.00 to make the dress. It is not a fact that I act as what is commonly known as a sporting woman at the Star Hotel. I have never been called a sporting woman and I have never practiced prostitution. I had a dress on when these officers came down there. I don't remember what kind of a dress. I do not know how much money I had in the room that night. There are rooms rented there and some of the money was room money, and some of the money was money that Mr. Simmons gave me. Mrs. Scribner was sick in bed at that time and I was taking care of the rooms. The officers never spoke to Mrs. Scribner. Mrs. Scribner came in to use the phone and walked out afterwards. She did not say a word to them. She was sick

(Testimony of Vera Harper.)

and under the doctor's care. A friend gave me that bottle of beer. I do not know that [66] it is any of your business what his or her name is. I have never gone under the name of Ada Chambers. I do not know whether Mrs. Scribner ever went under any other name than Mrs. Scribner. I had access to the kitchen and put this bottle of beer in Mrs. Scribner's ice-box. I was going to have it after my dinner. I do not know whether Mrs. Scribner knew that I had the bottle of beer in there. I use her ice-box all the time. I was not employed by Mrs. Scribner and have never been employed by her. I have known Mrs. Scribner since I have roomed in the house for a year and a half. I never roomed on the third floor. I paid \$5.00 per week for my room. Some times I eat my meals there and some times I do not. When I eat there I give her fifty cents a meal. I was going to have dinner there that night of the arrest. Lottie Powell was not going to have dinner there that night, she was going back to her hotel I suppose. I do not know where she eats. I have known Lottie Powell since the latter part of June of this year. I have seen that book before. It was in the house when I got there. Those figures do not belong to me. That is my name there. I wrote it, but anybody can scratch their name in a book, can't they? That is not my handwriting. The figures do not belong to me. I just scratched my name on there. The figures are not in my handwriting.

At this point Mr. McKinney had the book above

(Testimony of Vera Harper.)

referred to marked for identification as Government's Exhibit No. 11.

Thereupon Mr. Beeler objected to any reference being made to any papers or documents that may have been seized in this hotel without a search-warrant, and specifically objected to any reference being made to Government's Exhibit No. 11 for identification, on the ground that same was seized from the Star Hotel by the prohibition officers without any proper search-warrant to seize books or papers and on the ground that the said Government's Exhibit No. 11 for identification was unlawfully and illegally seized. Which objection was by the Court overruled and to which ruling an exception was entered. [67]

The witness continued: The figures in Government's Exhibit No. 11 are not in my handwriting. That (referring to the signature) is not my handwriting.

Thereupon Mr. McKinney offered Government's Exhibit No. 11 for Identification in evidence, to which offer an objection was interposed, and which objection was by the Court sustained. The witness continued:

I use a White sewing-machine down there. This machine was in the room in which Mr. Whitney and Mr. Simmons made the arrest. At the time the conversation took place with reference to this desk, Mrs. Scribner and we were all in the little room where Mr. Whitney had put us and we heard them breaking through the desk. We did not hear any



(Testimony of Vera Harper.)

conversation. I said to Mrs. Scribner, you had better take the key and open it for them. Mrs. Scribner and Lottie Powell and myself were in the room in which Mr. Simmons was watching us. I heard the cracking of the desk. The doors in the room were not shut all the time. They were not shut tight. They were shut part of the time. We were standing there and we heard them crashing that desk and I told Mrs. Scribner to unlock the desk before they broke it. I knew they were breaking the desk. Mrs. Scribner took the key from underneath a scarf on the chiffonier where I had put it. I told Mrs. Scribner to take the key and unlock the desk. I told her where the key was. I did not take it because Mr. Whitney was letting Mrs. Scribner do a little talking and he was letting me do none. I was talking at that time to Mrs. Scribner, not to Mr. Whitney.

#### Redirect Examination.

This book here that has been marked as Exhibit No. 11 for Identification, was taken from the Star Hotel. [68]

### TESTIMONY OF PEARL RILEY, FOR THE DEFENDANTS.

PEARL RILEY, a witness produced on behalf of the defendants, being duly sworn, testified as follows:

#### Direct Examination.

My name is Mrs. Pearl Riley. I live in the city



(Testimony of Pearl Riley.)

of Seattle and am a married woman. I have two children. I have lived in Seattle about six years. I was living here during the month of July of this year and also in June. In the month of June, 1923, I was in the Providence Hospital. I went to the Providence Hospital on the 30th day of May and staid there until the 20th of June, where I underwent an operation.

(Mr. McKINNEY.) "I object to anything like an operation, or anything like that."

When I left the hospital I went to live at 603 Marion Street. I know Lottie Powell, one of the defendants here and have known her about two years. I saw her on the 5th day of July of this year. She was at my house at 603 Marion Street. I have known her for two years, and when she went down to Los Angeles we corresponded with each other. She came to visit me while I was in the hospital many times. When I came out of the hospital and was convalescing she came to visit me at my home and stayed sometimes two or three days with me. She was there on the 5th of July during that night.

#### Cross-examination.

I know that Lottie Powell was married for she told me so. Her husband's name was Powell. My name before marriage was Pearl Holmes. I do not know what Lottie Powell's name was before she was married. I never asked her and she never told me. My husband is in business in Sacramento, California. He has been in Seattle practically all

(Testimony of Pearl Riley.)

of his life until the last few months. He is in the wholesale business down there with his father. They have a wholesale house. I am not working. I know definitely that Lottie Powell was at my home on the 5th of July, 1923, because we had planned to spend the 4th of [69] July together and she came to see me on the 4th and stayed all night of the 4th until the day of the fifth and that night and never left me until the afternoon of the 6th of July. I remember that very distinctly by its relation to the 4th of July. I did not talk to anybody about this case. I never saw Mr. Beeler before. The last time I saw Lottie Powell was just a few days ago.

Redirect Examination.

I am going down the next day or so to join my husband and children in Los Angeles. Last night, after court adjourned, was the first time I ever saw you. Lottie Powell introduced me to you and asked me to come to your office, to discuss the matter with you last night and I came down there to your office. I do not know Lottie Powell's business. I have never asked her.

TESTIMONY OF ALICE SCRIBNER, IN HER OWN BEHALF.

ALICE SCRIBNER, called as a witness in her own behalf, being duly sworn, testified as follows:

My name is Alice Scribner. I am married. William Scribner is my husband. I am in charge of the Star Hotel and have lived there two and a

(Testimony of Alice Scribner.)

half years. I was living there during the month of July. I did not know that any officers had been to the Star Hotel on July 5th and I did not know that any liquor had been disposed of by Vera Harper to the officers on that day. I was there on the night of July 6th. I was sick in bed. On the 6th I was upstairs in my bedroom with my husband, and I wanted to use the phone and I went downstairs, and as soon as I went to the door of this room I saw two men in the room, and I saw Mrs. Harper, and I said, "How do you do." I never talked to the officers and they never talked to me, and I went upstairs. When I went upstairs I met Mrs. Powell coming from the bathroom. She was coming down the stairway, and I suppose she had been to the bathroom, although I never asked her. But I went upstairs and I went to the bathroom myself and I stayed there a few minutes when I heard something just like it was a door that slammed, a noise, and I went downstairs again and when I went to Room No. 2 Mr. Whitney was there and said, "You are under arrest. We are prohibition officers." [70] And he shoved me in front of him into that front room. This Mrs. Powell was there and Mrs. Harper and the other officer Mr. Simmons, and I said, "What does this mean?" He said, "We are officers and you are under arrest." I said, "What for?" He said, "Shut up. You sit down." I said, "No, I do not want to sit down. I want to know"—I thought they were thieves raiding the place. I said, "What

(Testimony of Alice Scribner.)

is your authority? Show me your star." And then Mr. Whitney came up, and I said, "What is the matter that you don't talk?" I never talked to the officers before and they never asked me to have a drink, because I did not stay in the room. I just looked in the room because the phone was there, and when I saw there were other parties there I walked away. I did not at any time sell any liquor to these officers and I did not at any time know that Vera Harper had disposed of or sold any liquor to these officers. I do not believe that she ever did before. I did not know that she had liquor there. The woman that was living upstairs and that was referred to as the cook was my sister-in-law. She was not a cook. Her husband died last year and I was sick. I took sick on the first of July with neuritis. I was in bed three or four days and I asked her to come and take care of my apartment. Her name is Georgia Scribner. She got married again and lives at Index, Washington. I never used the term inmate in referring to these girls when I was talking with Mr. Simmons. Vera Harper or Lottie Powell never used the term of "mamma" in referring to me. Sometimes she called me by my middle name Alice. I never heard her phone using my name. I never heard her myself. When I was arrested I was coming from upstairs, and I was coming into room No. 2, the second room from the stairway and I met Mr. Whitney there; that is where I was. He did not talk to me. He did not want to give me any explana-

(Testimony of Alice Scribner.)

tion until I asked him for the search-warrant and he said, "We do not need any. We have got sale and possession on you." I asked him why he arrested me and told him that he did not find any liquor on me and I didn't sell liquor. [71] Afterwards I asked him not to take me and put me in the Immigration Station. When he told us to put our clothes on I told him I had been sick and I did not feel like going to jail, because he had nothing on me. When the officers were searching the place, I mentioned that if there was anything locked on the place not to break it that I could furnish a key. They did not make an answer to me and they put me in the little room with the ladies and my husband and my sister-in-law, and pretty soon we heard a noise, because that little desk is of hard wood, and it has two big hooks on the padlock, and I heard a big noise and I said I thought they were going to break the doors and I asked Mrs. Harper, and I said that desk is locked and have you got the key and she said it is under the dresser scarf on the chiffonier. Vera Harper never told me that she had gotten some money from these officers for liquor and she never told me that she had given away any liquor on the premises, but the night she was arrested, she admitted it. She never handed me or gave me any money any time except the time that she rents rooms for me. Sometimes I am away and sometimes she rents a room for me. She never gave me any money for the sale of liquor. This liquor, Govern-



(Testimony of Alice Scribner.)

ment's Exhibit No. 4 was never found in my apartment. There was never any whiskey in my apartment and there was no empty bottles. I never had anything whatsoever to do at any time with the handling or sale of liquor on the 5th and 6th days of July, or at any time in that hotel.

#### Cross-examination.

I have been married to Mr. Scribner for nine years and have been running the Star Rooms for two and a half years. My nationality is French. I have been sixteen years in this country and am a citizen because I am married to an American. I have been running the rooms all the time up to the time I was arrested. Workingmen room there of course. I keep a hotel register. Sometimes I did and sometimes I did not. Sometimes when a man stays in the house a long time I do not register him every day. Sometimes a man don't know how to write [72] his own name. I did not go as long as a week without registering anybody. I was the proprietress of this hotel. My husband had no interest in it, he was just living there. Sometimes I gave him money when he had need for it, sometimes he gave me his money. My name before I married was Alice Dum. I never used the name Ellen Dupont. (Referring to Government's Exhibit No. 12 for Identification.) That is my handwriting. This first check is my check also. That (referring to Government's Exhibit No. 13 for Identification) is my hotel register. It was not the register at the time



(Testimony of Alice Scribner.)

the officers took it. It was at one time the hotel register. That register I found in a room where I kept some linen—in the linen-room. It had been misplaced. Who put it there, I do not know. I do not know when it was misplaced, some time in January, I think. I found it when I went to clean out the room and I just left it in room No. 2. I think it was on top of the chiffonier. I found it before the officers arrested me, it might be a week or a month before. I do not know exactly. I had another hotel register which I kept in the hallway on the table. It was a book like that.

Thereupon Mr. McKinney again offered in evidence Government's Exhibit No. 11 for Identification to which offer an objection was interposed and which objection was by the Court sustained.

The witness continued: I kept my hotel register on the table. This hotel register the day I was arrested was on top of the chiffonier where anybody could see it. I had just come from upstairs when I was arrested. I was in the same room where the register was and the desk which Vera Harper said was hers was in the same room with the chiffonier. I opened the desk. My husband and Mr. Whitney and I think another man whose name I do not know, who testified yesterday. At that time Mr. Whitney had just taken me from the other room where we were prisoners. Mr. Simmons was not present. I know a party by the name of Alice Dugar. She is a friend of mine.

TESTIMONY OF W. L. SCRIBNER, IN HIS  
OWN BEHALF.

W. L. SCRIBNER, a witness produced in his own behalf, being duly sworn, testified as follows:

## Direct Examination.

My full name is W. L. Scribner. I live at 4433 51st Avenue South, down in Rainier Valley. My wife runs the Star Hotel. I came to the city of Seattle in 1892 about thirty years ago. I have lived about twelve years in Alaska. I came back to Seattle from Alaska in 1917. While in Alaska I was a miner and prospector around the Fairbanks district. When I came out of Alaska I went to Tacoma and opened up the Liberty Dance Pavilion. At the present time I am part owner of the Bungalow Cafe Company on Third Avenue. I became connected with the Bungalow Cafe Company on April 15th last. I was not here at the time my wife became interested in and took over the Star Rooms. I was then living in Los Angeles, California. I came back from Los Angeles on or about Christmas-time, I think. I came back after the holidays and then I went down to Los Angeles and stayed a month, then came back again. After I disposed of my business in Tacoma I was going down to Los Angeles to go in buying and selling second-hand automobiles with a friend of mine that I used to know in Alaska. I had absolutely nothing whatsoever to do with the operation of the Star Hotel and I did not at any time

(Testimony of W. L. Scribner.)

own any of the liquor that was seized by the prohibition officers which had been introduced as Government's exhibits and none of this liquor was at any time in my possession. This little bottle, Government's Exhibit No. 4, was never at any time in my apartment. I knew absolutely nothing about Vera Harper having possession of this liquor, nor that she was dispensing liquor and I never received any money from Mrs. Harper for the liquor that was sold or dispensed by her or handled by her. I did not know of any transaction between Mrs. Harper and the prohibition officials on the 5th day of July and I did not know that any prohibition officers had been in the hotel on that day. I did not know of any transaction or deals or sales that had been made by Vera Harper on the 6th of July. I had a conversation with Mr. Whitney about the [74] fact that we had been in the same war as veterans. He noticed this Spanish War button on me and I noticed one on him and he asked me what outfit I was with in the Philippines, and I told him the First Washington Regiment, and asked him what he was arresting me for. "Well," he said, "We found liquor in your apartment." And when we got down to the Immigration Station I asked him again, "What am I arrested for? You are keeping me away from my business and my partner is up in the hospital with an operation." But he would not even let me send the change to let the boys open up the place, and I had in the neighbor-

(Testimony of W. L. Scribner.)

hood of thirty people working for me, and not a cent in the house to make change. But finally he sent out and sent the money up and that was about ten o'clock when he let me open the place. After we got down to the Immigration Station he said, "You will be turned loose to-morrow." I said, "If I will be turned loose to-morrow by the Commissioner, what are you arresting me for?" He said, "It is just a matter of form." There was absolutely never any liquor at any time in my apartment and never at any time was there any empty bottles or full ones either, in my apartment.

Cross-examination.

Mrs. Scribner has given me money on several different occasions. I bought some property out there. We bought it together, and I had to borrow from her. We have been married nine years. Were married in Juneau, Alaska. My wife's name at the time I married her was Alice Dum. During the month of July, 1922, I think I was here. I was not doing anything. I am the manager of the Bungalow Cafe Company. It is at 1620 Third Avenue, between Pine and Stewart Streets. On the night of July 6th at the time of the arrest I did not know there were other parties in the house. I knew that Mrs. Harper was living there. I never met Lottie Powell and never saw her before the 6th of July. The only racket I heard that night before I was arrested was a door slam. If a table and a chair had been turned over I do not

(Testimony of W. L. Scribner.)

know whether I would or not have heard it from upstairs. The room I was in is directly above the room in which [75] these girls were arrested. At the time Mr. Whitney arrested me I had just completed shaving and I was on my way to the Bungalow. I do not drink. I have not drunk for seven years. While I was in Alaska I drunk once in a while. I do not remember whether my wife gave me any money about June 1st, 1923. I borrowed from her so many times that I cannot just remember. I have been running the Bungalow Dance Hall as manager since the 15th of April, 1923. My income has not been very much up to date, just a nice comfortable living, fair wages. Between the time that I took over the management of this dance hall and the time of my arrest, I borrowed some money from Mrs. Scribner to pay some unpaid bills. I always felt at liberty to ask her for money when I wanted it and she always gave it to me. We borrowed from each other. In reference to her income and mine, from the Star Rooms and the Bungalow Dance Hall, I think I made the most money. I have no other source of income outside of the Bungalow Dance Hall. I had sold some property in the Fairbanks district of Alaska a little bit before that. Mrs. Scribner has no other source of income than from the Star Rooms. There was not a drop of whiskey in my room that night. If one of the agents testified that he found a bottle and serving glass there, he is wrong. It seems to me they are de-



(Testimony of W. L. Scribner.)

liberately falsifying about it. I never knew Mr. Whitney before or any of the federal agents and I would not know one if I saw him. I never had any altercation with any federal officers. Sometimes I take my meals at the Star Rooms. I am not living at the Star Rooms any more because I bought a home and moved in my home. My wife is living with me. She still takes care of the Star Rooms, but she does not live there any more. I do not know how many rooms are rented up there. I pay no attention to that. I was present when the desk was opened. I do not know how long Lottie Powell has been living there. I do not think she ever lived there. I could not say how long Vera Harper has been [76] living there. I am not dependent on Mrs. Scribner for my support. In regard to the money that Mrs. Scribner gave me, I always let my wife handle all the money that I make because she could take care of it better than I could.

TESTIMONY OF LOTTIE POWELL, IN HER  
OWN BEHALF.

LOTTIE POWELL, called as a witness in her own behalf, being duly sworn, testified as follows:

My name is Lottie Powell. I am one of the defendants in this case. I have been living in California the last several years, and came up from California May the first of this year. I came from Oakland, California, where I have been living for about seven years. When I came up here I went to



(Testimony of Lottie Powell.)

live at the Stanley Hotel, which is located at 9th and Pike and I lived there about three months. I was not at the Star Rooms or Hotel at any time during the day or night of July 5th. I met the defendant Vera Harper about the last of June. A friend of mine told me that she was a dressmaker and I went down there to have her make me a dress. I do not remember just when this was, some time toward the last of June. I know Mrs. Riley, the lady who testified here a little while ago. I saw her during the months of June and July and I saw her while she was at the Providence Hospital. When she left the hospital she went to live at Sixth and Marion Street. I went to stay with her there during the month of July at different times and I was there on the 5th of July. I spent the 4th of July and also the 5th with her. I was not in the house where the officers were on the 5th of July and I had nothing to do with the sale of liquor to any of these officers on the 6th of July. Mr. Whitney's and Mr. Simmons' testimony that I brought out a drink and assisted Vera Harper in the sale of these drinks is untrue. When I came there on the 6th of July I walked up the hall to the room where I had been having my fittings and Mr. Whitney and the other officers were sitting there having a drink and Mr. Whitney asked me to have a drink, and I did not care to have a drink, and they insisted, so I had one drink. Then they arrested us [77] and placed us in the back room and finally took us to the Immigration Station. At

(Testimony of Lottie Powell.)

the time of the arrest there was some commotion and disturbance and altercation. We had one drink and Mr. Whitney ordered another and Vera Harper started to serve another drink to Mr. Whitney and Mr. Whitney started to grab her by this arm, and the chair and table were turned over, and I do not know what else. It looked like a fight to me. I was so excited I did not know what was going on. I never had anything to do with the sale of any liquor at the Star Hotel. I had never met Mrs. Scribner before the arrest was made and I did not use the name to her of "Mama."

#### Cross-examination.

I don't remember where I was on July the 3d or July 1st. On July 4th I was at Mrs. Riley's home and on July 5th I was at the same place. On July 6th I stayed at Mrs. Riley's home until late in the afternoon and I then went down to have a fitting at the Star Rooms. I never rented a room at the Star Rooms. I happened to meet Miss Harper through a friend of mine who told me she had made dresses for her. I do not think the name of that friend makes any difference. I never went under the name of Lottie Lane. I did not tell Mr. Whitney that my name was Lottie Lane. I work at different things. I have been working in a drug-store lately for about two months. I do not know Mrs. Scribner and have never known her or Mr. Scribner. I saw him on the night of the arrest for the first time. I have never been on the third floor of the Star Rooms. I did not

(Testimony of Lottie Powell.)

see Mr. Whitney on the night of the 5th and I did not sell Mr. Simmons a drink of whiskey on the night of July 3d and I did not sell Mr. Whitney a drink. It is not a fact that I am a common prostitute. I was not going to have dinner at Mrs. Scribner's that night. Mrs. Harper never said I was. I did not have any clothes in the Star Rooms, only my hat and coat. At the time these officers arrested me, I had on the suit I have on now. I did not change clothes that night before they took me to the Immigration Station. I had this dress on. I have been [78] *I have been* married two years and a half. My husband's name is Mr. Powell. We were married in Vancouver, B. C. At the time I was arrested, we had just gotten a divorce. I do not remember the date. This divorce was obtained in Seattle. I have known Mrs. Riley about two years. I met her in Seattle. I do not remember just where. I did not know her before she was married.

Both sides rested.

Thereupon Mr. Beeler made a motion for an instructed verdict of not guilty as to the defendants William Scribner and Alice Scribner on all four counts. And also made the same motion as to Lottie Powell. And made the same motion as to Vera Harper on Count 4, which motion was by the Court denied and an exception allowed.

INSTRUCTIONS OF THE COURT TO THE  
JURY.

The COURT.—Gentlemen of the Jury: The information in this case is in four counts. Count one charges all of the defendants with possession of intoxicating liquor on the 5th day of July, 1923. Count 2 charges them with the sale of intoxicating liquor on the 5th day of July. Count 3 charges them with the sale of intoxicating liquor on the 6th day of July, and count 4 charges them with maintaining a nuisance at the place described in the information on the 6th day of July, 1923. All of the violations charged in the several counts are a violation of the National Prohibition Act, in that the liquor that was in the possession and the liquor that was sold contained an alcoholic content in excess of one-half of one per cent per volume and was fit for beverage purposes; and count 4 that this liquor was maintained and kept in this place for sale and barter contrary to the provisions of the national prohibition act and therefore constituted a common nuisance under that act.

The defendants have all pleaded not guilty, that means denied the charge in the information. After the Government had introduced [79] its testimony the defendant Vera Harper asked permission to withdraw her plea of not guilty to counts 1, 2 and 3 and to enter a plea of guilty, and that was done this morning and the judgment has been entered against her upon those three counts 1, 2

and 3, upon the plea which she has entered. So you have nothing to do with her with relation to counts 1, 2 and 3. You have only to do with her with relation to count 4 of the indictment.

You are instructed that all of the defendants are presumed innocent of the charges made against them until they are proven guilty, beyond a reasonable doubt and this presumption continued with them throughout the trial and until you are convinced by the evidence and circumstances detailed by the witnesses of their guilt by that degree of proof. The burden is upon the Government to establish that degree of proof which I have indicated.

You are instructed that it is against the law for a person to have in their possession intoxicating liquor, as charged in this information, or to sell the liquor, as charged in this information. It is likewise against the law for a person to maintain a nuisance in any room or place wherein intoxicating liquor is sold or kept by keeping for sale or barter intoxicating liquor in any room.

In this case some of the facts are admitted. It is admitted, for instance, that the whiskey or the liquor that was contained upon these premises contains a prohibited amount of alcoholic content and likewise was fit for beverage purposes. It is admitted that some of this liquor was found upon the premises. Vera Harper admits that she had a beer bottle. I do not know what that exhibit number is; I believe it is number 10. And likewise the other bottle which I believe is exhibit 3,



the larger bottle which she called a serving bottle. There is no dispute of the testimony that the serving glasses were found upon the premises. There is dispute as to where the bottle exhibit 4 was found. The Government contends that it was found in the defendant William Scribner's room, or the room occupied by him and his wife, if I remember the testimony correctly; and he [80] denies that, as does likewise his wife. The beer bottle it is admitted was found in the ice-chest of the kitchen of Mr. and Mrs. Scribner, or the kitchen in the hotel occupied by Mr. and Mrs. Scribner. It is for you, Gentlemen of the Jury, to determine what the fact is with relation to the disputed issue; that is, what relation does the defendant Powell and the defendants Mr. and Mrs. Scribner bear to these charges here. Mrs. Powell denies that she had anything to do with it. Mrs. Harper says she did not have anything to do with it. Mrs. Scribner denies that she had anything to do with it, as does also Mr. Scribner. But Vera Harper says she did have it. Now, it is for you to determine from all these circumstances, and in order to do that it will be necessary for you to take into consideration every fact and every circumstance surrounding all these parties and determine from that whether there was any relation between these parties. It is admitted, for instance, that William Scribner and Alice Scribner are husband and wife and have been husband and wife for nine years. She says she bought this hotel two and a half years ago and has since been



occupying it herself. She said her husband had nothing to do with it. The husband says that he was there at the time and has since bought a home in the Rainier Valley. He likewise stated that he frequently borrowed money from his wife and he also stated that when he made money he gave it to his wife because she could take care of the money better than he could.

You are instructed that a husband and wife living together and having property together and contributing to the family fund, are presumed to own that property together, and if this property was purchased from the common fund, then this hotel was the property of the defendant William Scribner and his wife, both of them.

If she was running this hotel and if the circumstances will bear out the fact that she had an arrangement with one or both of these women to dispense any liquor in this hotel, then she would [81] be guilty, as would likewise her husband, if he knew that was done. If the wife engaged in this sort of business and the husband did not know it, then the husband would not be bound. But if he did know it then he would be bound whether he himself actually did the physical transaction of the making of the sale or not. And that applies with relation to Mrs. Scribner if she, as she said she did, occupied this hotel and managed it. Now then, if she did arrange with Mrs. Vera Harper to run this hotel or any part of it and authorized her or permitted her, with her knowledge and consent, to dispense liquor in that hotel to

persons coming in there or to anybody, then she would be liable for the sale just the same as though she transacted or performed the physical act of completing the barter. And in relation to Mrs. Powell, if she came to this hotel it is immaterial whether she lived there or not or if she lived elsewhere,—if she came down there for the purpose of spending her evenings or nights at the hotel or any part of it, and came there and co-operated and confederated with Vera Harper for the purpose of carrying on the business there of making exchange of whiskey for money or for anything else, then she would be guilty just the same as though she had lived there.

Now then, it will be for you to determine what relation do these people bear. You will have to determine what the facts are. In determining the facts you have to determine upon the credibility of the witnesses. You will have to take into consideration the demeanor of the witnesses upon the stand, the reasonableness of their story, the interest or lack of interest in the result of this trial, and from all these determine what relation do these people bear, where does the truth lie. You will apply that same rule to all the witnesses both for the defendants and the Government.

Considerable criticism is lodged against the witnesses on the part of the Government by the defendants in saying that they testified untruthfully. They testified that they went in there and bought whiskey. Simmons says he bought at one time from Mrs. [82] Powell and gave the circum-

stances. And then afterwards they went in and they bought whiskey from Vera Harper, and they said they exhausted the bottle. When asked why they had so many drinks they said they wanted to find out where the cache was; and they said they exhausted the bottle and Mrs. Harper asked Mrs. Powell to get some whiskey. Mrs. Powell went out and came back with this bottle. You will remember the testimony; don't take it from me, but from the witnesses on the witness-stand. Mrs. Powell says she went there for the purpose of being fitted, and Vera Harper says she was a dressmaker staying at these rooms for five dollars per week for a room at the hotel for dressmaking, and she said she had not been upstairs, that she had not been out of the lower apartment there. Now Mrs. Scribner said she came down for the purpose of telephoning. Then she said she went back for she saw these men there with this woman, and then she went up and met Mrs. Powell coming down the stairs. So there is a discrepancy between their testimony. One said she had not been out of the room, and the other said she came down from upstairs. So it is for you to determine from all the circumstances where the truth lies.

Now a good deal of criticism was offered to witnesses for the Government. You will criticise that testimony. Did it sound reasonable or did it ring true? If it did it is entitled to credit; if it did not it is not entitled to credit. Some criticism was offered to the witness Whitney because he had his wife come down there to a place which he

denominated a place of prostitution; and they asked him on cross-examination why he did that and I permitted him to answer over the objection of counsel for the Government, and he said he took his wife there for the purpose of finding some other parties; that a telephone message had been sent out at another time by one of the women to a certain taxicab company to send up a bottle and she said "This is Alice." Then he said that he had his wife phone and call up these various taxicab companies and say "this is Alice" and [83] to bring up some whiskey. That is why he brought her there. That stands uncontradicted. There is no denial of that on the part of any of the defendants' witnesses that that conversation took place, so it is for you to determine whether the story is reasonable and what was the purpose and motive of it.

Now, the same way with Simmons. Does his testimony ring true. If it does not, disregard it.

Now then, does the testimony of the defendants ring true? Does it sound reasonable? Would the defendant Vera Harper go to a hotel and pay five dollars per week for a room to make dresses or do sewing in? Or if she wanted to do sewing would she go out and have a room where she could be accommodated in that sort of fashion. Does that ring true? Or was the fact that she was doing dressmaking there simply a cloak for the purpose of shielding behind doing something else?

Then another thing you want to take into consideration is this: There is testimony here with

relation to the arrangement of these rooms. The witnesses on the part of the Government called them serving rooms, and they defined the way in which these rooms were fitted up as to tables and chairs, etc. You will have to take that from the testimony. Now, what was the purpose of Vera Harper occupying one of these rooms as a sewing-room? Was it reasonable to have a sewing-room fitted up in that sort of fashion? If the testimony that these rooms were fitted up in that sort of fashion is not so why didn't they deny it? Those are elements to be taken into consideration.

On the other hand, now, is the testimony of the witness Powell reasonable. She went down there to have a fitting. There is no testimony other than her statement and the statement of Vera Harper that there was anything to be fitted with. There was not any testimony that there was anything ready to be fitted; nothing that there was anything prepared for any such purpose at all. You will have to take those things into consideration, not merely the statements of the parties themselves upon either side, but take into consideration [84] the peculiar facts that are disclosed by the evidence and then determine where the truth is. When the witness Powell was asked how she happened to go there for the purpose of having a dress made she said that a friend sent her there. Then she was asked the name of the friend and she declined to give it. What was her purpose in doing that?

What we want here is the fact or facts, and



it is for you to determine what they are, and you will have to take into consideration all of the various elements and circumstances with relation to determining the good faith of this whole transaction. If these parties were simply down there violating the law and trying to shield themselves behind some pretense, then that is a matter to consider. If they were there in good faith and not violating the law, and if the testimony does not disclose—considering all the facts in this case—that they were violating the law, or if you have a reasonable doubt upon that, it must be resolved in their favor. But if you are convinced beyond a reasonable doubt, after taking into consideration all these facts and circumstances with relation to the entire transaction, that they are guilty beyond a reasonable doubt, then it is your duty to convict them; otherwise it is your duty to acquit them.

Now, with relation to the defendant William Scribner and this whiskey alleged to have been found in his room, which he denies, you will take into consideration his testimony and the manner of testifying, his positive denial that he knew anything about it, then all the circumstances which have been detailed here with relation to what transpired, and conclude whether the witnesses on the part of the Government deliberately falsified or whether the defendant did for the purpose of avoiding the penalty which the law fixes.

You will, as stated, take into consideration the interest or lack of interest of the witnesses on the part of the Government. Have they disclosed any

interest or any prejudice in the case which would indicate that they want to perjure themselves for the purpose of punishing innocent persons and swear to something that did not take [85] place. On the other hand, the defendants, if found guilty, must be punished. Now then, would they go to work and concoct such a story and conceive such a plan that would shield them? In view of the testimony did they consent that Vera Harper should plead guilty to the three counts and assume the burden for the purpose of shielding all the others? These are elements for your consideration as twelve fair-minded men. If they are all guilty they should all be convicted. If they are not proven guilty beyond a reasonable doubt they should be acquitted. The Government does not want them convicted if they are not proven guilty beyond a reasonable doubt. But if the testimony shows that they are guilty beyond a reasonable doubt the Government does not want them acquitted and they should not be.

Now then, in regard to the charge of maintaining a nuisance, you are instructed that a public nuisance is a place which harbors anything not authorized by law. The National Prohibition Act describes a nuisance as any room or place where intoxicating liquor is sold, kept or bartered in violation of the prohibition law. Such a place under that Act is declared to be a nuisance.

You are instructed that if the rooms were maintained in this place with tables and chairs for serving purposes and serving liquor or whiskey

and if whiskey was delivered or ordered by telephone for delivery at the place, such a place would be a nuisance. And you are instructed that it is immaterial who owns the place as to whether they are guilty of maintaining a nuisance. If Vera Harper conducted this place alone and it was such a place as I have defined here, then she is guilty of maintaining a nuisance, whether she had anything to do with the ownership of the hotel or not. If Mrs. Powell came there in the evening or the night and co-operated or confederated with the defendant Vera Harper in maintaining this place and entertaining people there by serving drinks, then she would be guilty of a nuisance, provided that she is guilty of making a sale. If Mrs. Scribner, being the owner of the hotel, employed these girls or engaged these girls or either of them to be there to maintain this place and operate it, [86] as testified by Whitney that she said when she came downstairs and was asked to have a drink that she did not want a drink but the girls would take care of them, and knew that whiskey was being sold, then she is guilty of sale and possession and of maintaining a nuisance. And if the defendant, William Scribner, her husband, knew that this was being done and carried on, and participated in it with his wife as a common owner of the property by reason of the community estate, then the defendant William Scribner would likewise be guilty of maintaining a nuisance and likewise be guilty of sale and possession, whether this bottle was found in his room or not.

Another element to be taken into consideration in this case with relation to Mr. and Mrs. Scribner is the beer bottle that was found in the ice-chest in the kitchen, in connection with the circumstances I have related to you.

You can find all of the defendants guilty of all of the counts in the information, as set out in this formal verdict. I have omitted Counts 1, 2 and 3 as to Vera Harper in this verdict, because the plea has already been entered. But you can find the other three defendants guilty of Counts 1, 2, 3 and 4, if you are convinced by the testimony beyond a reasonable doubt. Or you may find either one of them guilty of one or all of the counts. Or you may find any of them guilty of one or all of the counts.

If you find the defendant William Scribner guilty then you must find his wife guilty, because if she is not guilty then he would not be under the testimony in this case. If you believe that the defendant William Scribner did not know about the operation of this hotel or the selling of whiskey as charged here, but he did have possession of this bottle in his room, then he would be guilty of count one only, of possession,—and not guilty of the other counts.

Now a reasonable doubt, Gentlemen of the Jury, is such a doubt as a man of ordinary prudence, sensibility and decision would have in determining an issue of like concern to himself as that before the jury [87] is to the defendants, which would make him pause and hesitate in arriving at a ver-

diet of guilty. Such a doubt should be entertained only if it satisfies you beyond a reasonable doubt that may be created by the evidence itself. It should not be speculative, imaginary or conjectural, but it must be a sensible doubt of the defendant's guilt in the light of all of the evidence, and after a full and fair-minded consideration of the same together with all of the circumstances which have been detailed in the case and not a mere possibility of the defendant's innocence. It must not arise from a misconceived suspicion or kindly or sympathetic feeling. It must be a substantial doubt such as an honest, sensible and fair-minded person might with reason entertain with the conscientious desire to ascertain the truth and perform the duty of a good juror. A juror is satisfied beyond a reasonable doubt if from a fair-minded consideration of the entire evidence he has an abiding conviction of the charge made against the defendants or any one of them; or if he is satisfied that he is convinced to a moral certainty of the guilt of the party.

I believe that I have covered the case.

Mr. BEELER.—I desire to except to the instructions given by your Honor to the jury. Particularly do I desire to except to that part of your Honor's instructions to the effect that there was no testimony in the case on behalf of the defense that Lottie Powell ever had a fitting of clothing at the Star Hotel, because Lottie Powell so testified and Vera Harper testified that there was a fitting



and that she was making a sport suit for Lottie Powell.

I ask the Court to instruct the jury that even though this bottle of beer was found in the ice-chest of the apartment of Mr. and Mrs. Scribner that that would not be sufficient to make them guilty of possession of it, or possession of any liquor, unless they knew of the fact that the liquor was in the ice-chest. [87½]

The COURT.—You are instructed, Gentlemen of the Jury, that the beer being found in the ice-chest of the defendant, Mrs. Scribner, standing alone, would be presumptively in the possession of Mr. and Mrs. Scribner, because the ice-chest is theirs and therefore everything in the ice-chest is presumed to be theirs and therefore in their possession. It is for them to explain that it was not in their possession and they knew nothing about it. Now, Mrs. Harper says that she put it there and it was hers; that she did not know whether Mrs. Scribner knew anything about it or not, and I believe Mrs. Scribner said she knew nothing about it. It is for you to determine under all the circumstances what the truth is.

With relation to my statements or any statement with relation to any fact in the case or any statement as to the absence of any proof with relation to any fact, what I have said was not for the purpose of conveying to you any opinion of mine, but simply to illustrate some proposition of law which may be involved with the facts, and you will not be guided by anything I said with relation

to any statement either made or omitted, but will conclude upon the facts solely and from the evidence which has been presented from the witness-stand and the circumstances which have been detailed. My only purpose in referring to the testimony and to any circumstances either given or omitted, was simply to illustrate some proposition for your consideration, so that you may fully and duly find what the fact is as twelve fair-minded conscientious men, so that justice may be done in this case to the defendants and likewise to the Government, because that is what courts and juries are for.

This information is not evidence, but is sent out for your information to the jury-room. The verdict is the usual form. It will require your entire number to agree upon a verdict, and when you have agreed you will cause it to be signed by your foreman. [88]

AND NOW, in furtherance of justice and that right may be done, the defendants, William L. Scribner and Alice Scribner and Lottie Powell, tender and present to the Court the foregoing as their bill of exceptions in the above-entitled cause and pray that the same may be settled and allowed and signed and sealed by the court and made a part of the record in this case.

ADAM BEELER,

Attorney for Plaintiffs in Error.

Service of a copy hereof is hereby acknowledged this 20th day of February, 1924.

THOS. P. REVELLE,

United States Attorney.

The foregoing bill of exceptions is hereby settled this 10th day of March, 1924.

JEREMIAH NETERER,

Judge.

[Endorsed]: Lodged in the United States District Court, Western District of Washington, Northern Division. February 20, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy.

Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 20, 1924. F. M. Harshberger, Clerk. By \_\_\_\_\_, Deputy.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. March 10, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [89]

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In the United States Circuit Court of Appeals for the Ninth Circuit.

No. 7795.

WILLIAM L. SCRIBNER, ALICE SCRIBNER  
and LOTTIE POWELL,

Plaintiffs in Error,

vs.

UNITED STATES OF AMERICA,

Defendants in Error.

ORDER EXTENDING TIME THIRTY DAYS  
TO FILE RECORD AND DOCKET CAUSE.

This matter coming on regularly for hearing on the application of the defendants for an order extending the time in which to file and docket the record in the Circuit Court in the above-entitled cause, the Court being fully advised in the premises and good cause being shown,—

IT IS HEREBY ORDERED that the time within which to file and docket the record in the above-entitled cause in the United States Circuit Court of Appeals for the Ninth Circuit, be, and hereby is, extended 30 days from the date hereof.

Done in open court this 3d day of March, 1924.

JEREMIAH NETERER,

Judge.

Service of the foregoing order by receipt of a true and correct copy thereof, is hereby acknowledged this 3d day of March, 1924.

THOS. P. REVELLE,

United States Attorney.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. March 3, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [90]

In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER  
and LOTTIE POWELL,

Defendants.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the Above-entitled Court:

You will please prepare a transcript of record on appeal to the Circuit Court of Appeals of the Ninth Circuit in the above-entitled cause, and include therein the following:

1. Information and supporting affidavit of W. M. Whitney.
2. Arraignment of each defendant.
3. Plea of each defendant.
4. Record of trial and impanelling jury.
5. Verdict.
6. Motion in arrest of judgment and alternative motion for new trial.
7. Motion for new trial.
8. Decision on motion in arrest of judgment and for new trial.
9. Judgment and sentence of each defendant.
10. Petition of William L. Scribner and Alice Scribner for writ of error.



11. Petition of Lottie Powell for writ of error.
  12. William L. Scribner's and Alice Scribner's assignments of error.
  13. Lottie Powell's assignments of error.
  14. Order allowing writ of error to William L. Scribner and Alice Scribner.
  15. Order allowing writ of error to Lottie Powell.
  16. Supersedeas of William L. Scribner.
  17. Supersedeas of Alice Scribner.
  18. Supersedeas of Lottie Powell.
  19. Citation on writ of error of William L. Scribner and Alice Scribner.
  20. Citation on writ of error of Lottie Powell.
- [91]
21. Writ of error of William L. Scribner and Alice Scribner.
  22. Writ of error of Lottie Powell.
  23. Order to consolidate.
  24. Order extending time to serve and file bill of exceptions.
  25. Bill of exceptions.
  26. Order settling bill of exceptions.
  27. Defendants' praecipe.
  28. Order extending time to file record and docket cause.

ADAM BEELER,

Attorney for Defendants.

We waive the provisions of the Act approved February 13, 1911, and direct that you forward typewritten transcript to the Circuit Court of

Appeals for printing as provided under Rule 105 of this Court.

ADAM BEELER,

Attorney for Defendants.

Received copy of praecipe February 20th, 1924.

THOS. P. REVELLE,

Attorney for Plaintiff,

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. February 20th, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [92]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER, ALICE SCRIBNER,  
and LOTTIE POWELL,

Defendants.

CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT OF RECORD.

United States of America,  
Western District of Washington,—ss.

I, F. M. Harshberger, Clerk of the United States District Court for the Western District of Washington, do hereby certify this typewritten transcript

of record, consisting of pages numbered from 1 to 92, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record and on file in the office of the Clerk of said District Court, and that the same constitute the record on return to writ of error herein, from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of the plaintiffs in error for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [93]

Clerk's fees (Sec. 828, R. S. U. S.) for making record, certificate or return, 252 folios at 15¢ .....	\$37.80
Certificate of Clerk to transcript of record, 4 folios at 15¢.....	.60
Seal to said certificate .....	.20

I hereby certify that the above cost for preparing and certifying record, amounting to \$38.60, has been paid to me by attorney for plaintiffs in error.

I further certify that I hereto attach and herewith transmit the original writs of error and the original citations issued in this cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, at Seattle, in said District, this 21st of March, 1924.

[Seal] F. M. HARSHBERGER,  
Clerk United States District Court, Western District of Washington. [94]

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In the United States Circuit Court of Appeals for the Ninth Circuit.

No. 7795.

LOTTIE POWELL,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

WRIT OF ERROR (LOTTIE POWELL).

The United States of America,—ss.

The President of the United States of America, to the Honorable Judges of the District Court of the United States for the Western District of Washington, Northern Division, GREETING:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in said District Court, before the Honorable Jeremiah Neterer, between Lottie Powell, the plaintiff in error, as by her complaint and petition herein

appears, and we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the party aforesaid on this behalf,—

DO COMMAND YOU, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, together with this writ, so that you have the same at said city of San Francisco within thirty days from the date hereof, in said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid being then and there inspected, said United States Circuit Court of Appeals may cause further to be done therein to correct the error what of right, and according to the laws and customs of the United States of America should be done in the premises.

WITNESS the Honorable WILLIAM HOWARD TAFT, Chief Justice of the United States, this 11th day of February, 1924, and the year of the Independence of the United States, one hundred and forty-eighth.

[Seal] F. M. HARSHBERGER,  
Clerk of the District Court of the United States  
for the Western District of Washington. [95]

Acceptance of service of within writ of error,  
acknowledged this 11th day of February, 1924.

THOS. P. REVELLE,  
Attorney for Defendant in Error.

B. E. M.



Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [96]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIBNER,

Defendants.

WRIT OF ERROR (WILLIAM L. SCRIBNER AND ALICE SCRIBNER).

The United States of America,—ss.

The President of the United States of America, to the Honorable Judges of the District Court of the United States for the Western District of Washington, Northern Division, GREETING:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in said District Court, before the Honorable Jeremiah Neterer, between William L. Scribner and Alice Scribner, the plaintiffs in error, as by their complaint and petition herein appears, and we being willing that error, if any hath been, should

be duly corrected, and full and speedy justice done to the parties aforesaid on this behalf,

DO COMMAND YOU, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings with all things concerning the same, to the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, together with this writ, so that you have the same at said city of San Francisco, within thirty days from the date hereof, in said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid being then and there inspected, said United States Circuit Court of Appeals may cause further to be done therein to correct the error what of right, and according to the laws and customs of the United States of America should be done in the premises.

WITNESS the Honorable WILLIAM HOWARD TAFT, Chief Justice of the United States, this 5th day of February, 1924, and the year of the Independence of the United States, one hundred and forty-eighth.

[Seal]

F. M. HARSHBERGER,  
Clerk of the District Court of the United States  
for the Western District of Washington. [97]

Acceptance of service of within writ of error,  
acknowledged this 5th day of February, 1924.

THOS. P. REVELLE,

Attorney for Plaintiff.

Filed in the United States District Court, Western District of Washington, Northern Division.

Feb. 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [98]

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In the United States Circuit Court of Appeals for  
the Ninth Circuit.

No. 7795.

LOTTIE POWELL,

Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,

Defendant in Error.

CITATION OF WRIT OF ERROR (LOTTIE  
POWELL).

United States of America,—ss.

The President of the United States of America  
to the United States of America, and to  
Thomas P. Revelle, United States Attorney  
for the Western District of Washington, North-  
ern Division, GREETING:

You are hereby cited and admonished to be and  
appear before the United States Circuit Court of  
Appeals for the Ninth Circuit at San Francisco,  
in the State of California, within thirty days from  
the date hereof, pursuant to a writ of error filed  
in the Clerk's office of the District Court of the  
United States for the Western District of Washing-  
ton, Northern Division, wherein the said Lottie Pow-  
ell is the plaintiff in error, and the United States  
of America is the defendant in error, to show cause,

if any there be, why judgment in said writ of error, should not be corrected, and speedy justice should not be done to the party in that behalf.

WITNESS the Honorable JEREMIAH NETERER, Judge of the District Court of the United States for the Western District of Washington, Northern Division, this 11th day of February, 1924.

[Seal]

JEREMIAH NETERER,

United States District Judge.

Service of the within citation and receipt of a copy thereof, is hereby admitted this 11th day of February, 1924.

THOS. P. REVELLE,

Attorney for Defendant in Error.

B. E. M.

Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 11, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [99]

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In the United States District Court for the Western District of Washington, Northern Division.

No. 7795.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM L. SCRIBNER and ALICE SCRIBNER,

Defendants.

CITATION OF WRIT OF ERROR (WILLIAM  
L. SCRIBNER AND ALICE SCRIBNER).

United States of America,—ss.

The President of the United States of America  
to the United States of America, and to  
Thomas P. Revelle, United States Attorney  
for the Western District of Washington, North-  
ern Division, GREETING:

You are hereby cited and admonished to be and  
appear before the United States Circuit Court of  
Appeals for the Ninth Circuit at San Francisco, in  
the State of California, within thirty days from  
the date hereof, pursuant to a writ of error filed  
in the Clerk's office of the District Court of the  
United States for the Western District of Wash-  
ington, Northern Division, wherein the said Will-  
iam L. Scribner and Alice Scribner are the plaintiffs  
in error, and the United States of America is the  
defendant in error, to show cause, if any there  
be, why judgment in said writ of error, should  
not be corrected, and speedy justice should not  
be done to the parties in that behalf.

WITNESS the Honorable JEREMIAH NET-  
ERER, Judge of the District Court of the United  
States for the Western District of Washington,  
Northern Division, this 5th day of February, 1924.

[Seal]

JEREMIAH NETERER,  
United States District Judge.



Service of the within citation and receipt of a copy thereof, is hereby admitted this 5th day of February, 1924.

THOS. P. REVELLE,  
Attorney for Plaintiff.

Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [100]

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[Endorsed]: No. 4252. United States Circuit Court of Appeals for the Ninth Circuit. William L. Scribner, Alice Scribner and Lottie Powell, Plaintiffs in Error, vs. United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Western District of Washington, Northern Division.

Received March 24, 1924.

F. D. MONCKTON,  
Clerk.

Filed May 12, 1924.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.